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WAGES AND PRICES IN AUSTRALIA:

OUR LABOUR LAWS AND THEIR EFFECTS.

H. M. MURPHY

SECRETARY
DEPARTMENT OF LABOUR
MELBOURNE

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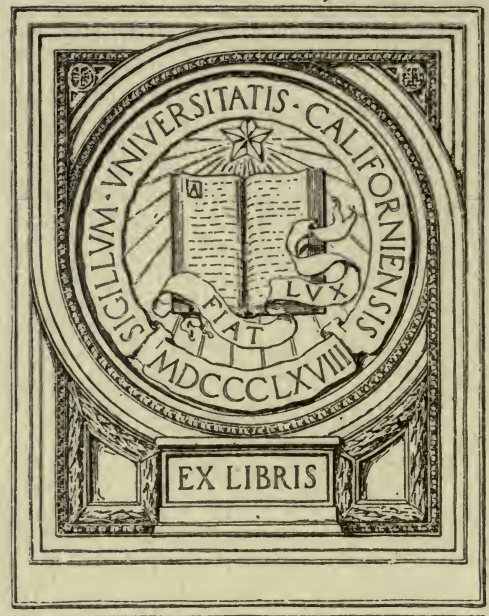

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WAGES AND PRICES IN AUSTRALIA.

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WAGES AND PRICES IN AUSTRALIA:

Our Labour Laws and their Effects

ALSO, A REPORT ON

How to Prevent Strikes.

By H. M. MURPHY,
Secretary to the
Department of Labour, Melbourne.

UNIV. OF CALIFORNIA

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TO THE HON.

SIR ALEXANDER J. PEACOCK, K.C.M.G.,

MINISTER OF LABOUR,

VICTORIA.

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ACKNOWLEDGMENTS.

My first acknowledgments are due to my Chief, the Honorable Sir Alexander James Peacock, K.C.M.G., Premier and Minister of Labour of the State of Victoria. He has given me permission to set aside for the moment my official personality and publish a candid statement of the position in Australia with regard to labour matters as it appears to my mind. Without that permission some of the matter in this book would seem to many people to be improper criticism from the mouth of the permanent official head of the Labour Department of Victoria. Notwithstanding my Chief's permission, I wish it to be distinctly understood that I am responsible for all the opinions expressed. I am not sure how much or how little of my view is shared by Sir Alexander Peacock, but, however that may be, the matter in this book is published at my own risk and does not involve him in any endorsement of it. I should like to take this opportunity to further express my personal obligation to him. My experience in connection with labour matters began less than seven years ago, when I gave up the position of Police Magistrate for the one I now occupy. During most of that time Sir Alexander Peacock has been my Minister. He has had more experience of labour administration than any other man in Australia. He introduced the first Factories Act in Victoria twenty-one years ago, and has administered, either as Chief Secretary or Minister of Labour, the labour laws of Victoria ever since, with the exception of the times when he has been out of Ministerial office. He has given to the working man in Victoria almost all he possesses in the way of labour laws. He is the author of what has been properly described as the most perfect system of collective bargaining ever yet devised, viz., the Victorian Wages Boards, upon which an equal number of representatives of employers and of employees meet at a round table conference on terms of perfect equality, presided over by a neutral Chairman.

I believe Victoria owes its comparatively strikeless position, its economy in cost of administration, and the comparative absence of interference with the course of trade, to the wisdom and foresight displayed in the framing of its laws. It is well known that he has brought to bear in such matters not only a keen intellect and a tireless energy, but also one of the most kindly dispositions that have ever been possessed by any man. The working man in this State has had the benefit of those qualities. I as an official have shared in these benefits, which I now beg gratefully to acknowledge.

My second acknowledgments are due to the Honorable F. W. Hagelthorn, Minister of Agriculture. Probably few people are aware of the amount of time and study he devotes to questions of increasing national efficiency, making the output greater, and improving conditions generally for the benefit not only of the working man, but of the employer and all classes of the community. I am indebted to his forethought in initiating courses of lectures, lending me books, and to his interest and encouragement, without which I should never have been able to pursue my subject to the extent that I have done.

My third acknowledgments are due to an old friend, Mrs. Julia Bartrop, wife of George Frederick Bartrop, Barrister-at-Law, a brother Police Magistrate. Notwithstanding an illness of sixteen years' duration, which has confined her to her room, her fertile mind directed me to the study of co-operative profit-sharing, with the result that I am convinced that therein lies the most hopeful remedy for most of our industrial troubles.

My fourth acknowledgments are due to Messrs. C. H. Ford and R. T. Littlejohns, both of whom are Certificated Accountants and members of the staff of this Department, for preparing under my direction the figures used herein.

H. M. MURPHY.

125 Osborne-street, South Yarra,
1st August, 1917.

UNIV. OF CALIFORNIA

Wages and Prices in Australia.

Common Principles of Australian Labour Laws.

Common to all labour laws in Australasia is the principle of the minimum wage. This principle is the keynote, the governing idea around which all our legislation circulates, the chief end for which it is designed. The ways of arriving at the amount of the wage are different in every State, and in the Commonwealth law; no two methods are alike in detail, but they all set out to fix a minimum time wage for each worker in a trade, and they all provide means of enforcing payment. The wage fixed must be paid, whether the worker has performed his task industriously or not—as the clock goes round the wage accrues—the amount is measured by the time the worker has been at work, with no relation to the amount of work he has done. In some trades, prices are fixed for piece-work—such cases are, of course, an exception to the above.

Another principle common to all these laws is that each separate Tribunal, each Court or Board is vested with untrammelled power to fix rates of wages on any scale, high or low, which at the moment it chooses. No measure or rule is anywhere laid down to limit or guide in the work of appraisement, and no authority exists for making the money reward for work even. There is an absence of rule, guidance, or co-ordination. In practice regard is had almost solely to the cost of living. Cost of living goes up, the employees go to the Arbitration Court or the

Wages Board, and wages are raised. Evidence is not seriously gone into as to how the higher wages are to be found, but it is generally assumed that the cost will be "passed on" to the consumer by means of an increase in the cost of the article dealt in. The process of raising wages has become almost mechanical in recent years, and during the period of about twenty years that Australia has had labour laws the trend has been always upward. No tribunal has yet lowered wages.

Another common principle is that workers are dealt with only in small sections. Each award applies only to the trade for which it is made, and the majority of work-people in Australia are still outside the influence of the law that fixes and enforces wages. Thus the Engineers' Awards only apply to Engineers—the Printers' only to Printers, and so on. No attempt has ever been made to apply the principle of the minimum wage universally. Mr. G. H. Knibbs' (the Commonwealth Statistician) Bulletins up to the end of 1915 estimated the total number of wage-earners and salary-earners in Australia at 1,190,900. Of these, 569,000 were protected by awards and determinations, while 621,900 were not. (*Labour Report* No. 6. 1916.)

In Victoria, 150,000 are under Wages Board Determinations out of a total of 346,800.

These figures do not include persons under Commonwealth Court Awards, as figures were not available, but the result would not be greatly altered, as most of those under Commonwealth awards are also under State protection.

What can be said of the soundness and equity of a law which protects "A" and leaves out "B"? If it is right and proper that workers in the regulated trades—the smaller section—should have their wages and conditions fixed and enforced by law, how can it be defended that the larger section of the working class is left untouched? Our labour laws are unlike other laws which apply to everybody alike —they in effect help the strong organized bodies of workers, leaving, as a rule, the others without assistance.

The Worker is Losing Ground.

Mr. Knibbs' figures (*Labour Report* No. 7, 1917) as to the rise in wages and the rise in living cost for the period 1901-1916 inclusive, show—

For Australia—

	Per cent.
Rise in cost of living	50·7
Rise in wages	39·6
Balance against the worker ..	11·1

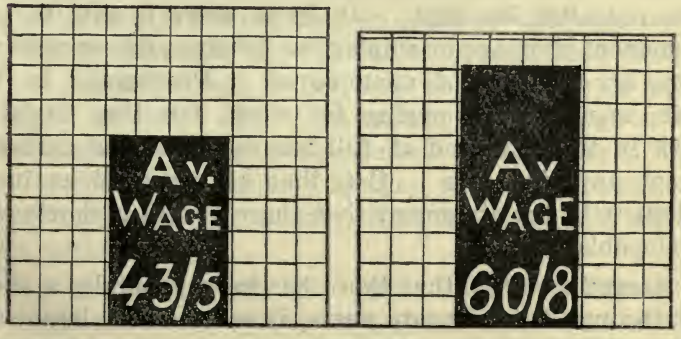
For Victoria—

Rise in cost of living	50·2
Rise in wages	44·2
Balance against the worker ..	6·

The two following blocks show by the relative size of their superficial area the exact purchasing power of the average wage in 1901 and 1916:—

For Australia.

1901. 1916.



It must be clearly understood that these figures relate to the whole body of workers. If certain sections or trades were picked out it would be found that their increases are very much greater than the increase in cost of living, but this does not affect the truth as far as the general body is concerned.

If these figures are correct, the workers are worse off now than when they began to agitate for laws to regulate wages.

Although wages have risen most in legally-regulated trades, they have gone up in others as well. The figures on this head cannot be obtained to date, but some have been collected that apply up to the end of 1914. The comparison is between wages paid in 1897 and 1914. They only apply to the 5,720 Victorian workers about whom figures could be collected, and show that in that period the increase amounted to 61 per cent. The incompleteness of this information is apparent, but at least it may be taken as a fact that wages in unregulated trades have risen very largely. This rise may have been to a small extent a reflex and consequence of the increases enforced by law in regulated trades, but a more probable cause is the shortage of *employable* labour. During the twenty years of our experience of labour laws there has been almost continuously—speaking of employment in a very general sense —a lack of hands. It is true that bodies of unemployed have also been in evidence almost as continuously, but that does not alter the fact. In India there is said to be a permanent shortage of employable labour, and concurrently there are millions of unemployed. Frequently, in Victoria, men are clamouring for work, but they insist on work in the city, and at full wages rates, and refuse to accept anything else. Can that be regarded as inconsistent with the statement that there is still a shortage of employables?

Assuming, then, that there has been generally a shortage through those twenty years, it seems clear, because of that and other causes, that wages would have gone gradu-

ally up as they have done all over the world even if no labour law had ever been passed.

Wages for Skilled and Unskilled Work.

One of the most serious consequences of our laws is to be found in the fact that the skilled worker is not encouraged. A comparison of rates of pay shows that the unskilled in some trades are paid more than the skilled in others, and in all trades the pay of each class is so near to being equal that there is little inducement for the increase in skill and knowledge which, under other conditions, the worker might aim at.

In America the pay of the highly qualified worker is about double, sometimes more than double, that of the unskilled worker in the same trade. The result is the ambitious, capable young worker does all in his power to increase his skill in order to increase his pay, and so the best men get to the top while the less efficient gravitate to the bottom, where they ought to be.

It cannot reasonably be expected that Australia will become a successful manufacturing country in the face of keen modern world competition while it fails in this way to encourage the acquisition of higher skill in its operatives. The large sums spent in technical education in all the States cannot but be less effective in attaining their object in the face of such discouragement of efficiency. The inducement for a young worker to spend his time at the technical school is his ambition to command a higher wage. Our labour tribunals have failed to provide that inducement. The adolescent worker sees ahead of him as much, or almost as much, pay if he spends his evenings at the picture shows as at the workingmen's college. He is more likely to choose the easier way than to face the work and deprivation involved in the effort to become a highly-skilled artisan.

As time has passed, the tendency of the tribunals to make only slight differences in favour of the skilled worker has become rather more marked than otherwise.

Comparison of the Rates of Wages in 1917 Fixed for Certain Skilled and Unskilled Work.

Unskilled Work.		Skilled Work.	
Occupation.	Rate per hour.	Occupation.	Rate per hour.
	s. d.		s. d.
Wharf Labourers ..	1 9	Saddlers	1 3
Coopers' Labourers ..	1 3½	Confectioners	1 2⅝
Glassworkers' Labourers	1 3¾	Makers of first-class coffins	1 4
Coal Yard Labourers ..	1 3¾	Painters and Blacksmiths	1 4½
Gasworkers' Labourers	1 3¾	Fitters and Assemblers of Agricultural Implements	1 4½
Builders' Labourers ..	1 6	Acidifiers (Candle-making)	1 3
		Cream-grader(Butter-factory)	1 2⅝
		Gold Miners	1 3¾
		Cabinet Makers . ..	1 4¼

Comparison of Wages in 1915 for Skilled and Unskilled Work in Australia and America.

[U.S.A. *Labour Report*, No. 194, of 1916, Commonwealth Arbitration Court Reports, 1917, and 1914 Annual Report of Chief Inspector of Factories, Melbourne.]

Trade.	Wage per hour.			
	Melbourne.		New York.	
	Skilled Work.	Unskilled Work.	Skilled Work.	Unskilled Work.
	s. d.	s. d.	s. d.	s. d.
Bricklayers	1 7½	1 1	3 2	1 7
Carpenters	1 7	1 2¼	2 7	1 6
Painters	1 4½	1 1	2 1	1 6
Signwriters	1 4½	1 1	2 7	1 6
Plumbers	1 6	..	2 10	1 3
Gasfitters	1 6	..	2 10	1 3
Plasterers	1 7	1 1	2 10	1 8
Tile Layers	..	..	2 10	1 7
Marble Setters	..	..	2 11	1 8
Aerated Water	1 0½	0 10⅝	1 2	1 0
Biscuit	1 1⅝	0 11¼		
Stonecutters	1 5½	1 2½	2 10	1 10
Boilermakers	1 4½	1 0	2 7	1 10
Candlemakers	1 1¼	1 0		
Blacksmiths	1 4½	1 0	1 10	1 2
Machinists	1 1½	1 0	1 8	1 1
Steel Moulders	1 3	1 0⅜		
Glassworkers*	1 5¼	1 3¾		
Gasworkers*	1 6¾	1 3¾		
Average	1 4½	1 1½ or 82·1 % of rate for skilled work.	2 5¾	1 5½ or 58·8 % of rate for skilled work.

*These rates were fixed by the Commonwealth Arbitration Court in 1917.
Note.—The rates, with the exception of the two last on the list, are for the year 1915, as that is the latest uniform date obtainable.

The Amount of the Minimum Wage.

There has never yet been any rule laid down to guide the work of wage fixing. Each State and the Commonwealth has set up a tribunal with extremely wide powers, yet no one of them has made any attempt to guide its tribunal in the most vital part of its jurisdiction—the fixing of rates of pay—nor has there been any attempt to limit the use of these powers, nor to co-ordinate the use of these powers by the many separate tribunals. The jurisdiction reposed in the Commonwealth to conciliate and arbitrate in "disputes extending beyond the limits of any one State" is exercised by three High Court Judges, who act separately. If Mr. Justice Higgins, the President, fixes a certain sum as a "living wage" for an unskilled labourer, the other Judges are not bound, and may fix a larger or smaller amount in the disputes brought before them. In New South Wales the jurisdiction given by the State laws over all trades is exercised by Judges, Wages Boards, and Industrial Agreements all running separately and all acting without co-ordination with each other or the Commonwealth Courts. In South Australia, in the same way, they have both Wages Boards and a Court. In Queensland and Western Australia there are Courts. In Victoria and Tasmania there are Wages Boards only. In Victoria the 147 Boards, just in the same way as the other tribunals mentioned, are quite independent of each other, and each one has power to fix on any sum it pleases as the basic wage. The measure and amount of the wages fixed is as an inevitable consequence dependent largely on considerations unrelated to the question of the proper reward for labour. Instead of considering only the skill required for the work, the care required from the worker, the knowledge he must possess and the conditions of the work itself in deciding what the wage shall be, tribunals are sometimes moved by influences quite outside the scope of the assessment and appraisement of the value of the work. Some proof of this is to be found in the fact that the most powerful and highly-organized trades have obtained the highest wages.

Thus the Australian Workers' Union has secured 30/- per hundred for shearing sheep, which works out on the average of 350 sheep shorn per man per week at about 2/2¼ per hour. The Waterside Workers' Union has secured for wharf labourers 1/9 per hour, with higher rates for overtime, and the Coal Miners' Union 1/8 per hour for coal miners in New South Wales, while, on the other hand, white-workers, who are incapable because of their circumstances and conditions of forming a union of any strength, are, in most States, without the protection of any award. In Victoria they get 5d. per hour in wages, with an equivalent piece-work rate. It is true that white-workers are women, but they are just as much entitled to a living wage as the men who get 2/2¼ an hour.

Perhaps a better comparison would be that of a livery-stable employee in Victoria at 8½d. an hour, with his brother, the shearer, at 2/2¼ an hour.

The essence of a wage-fixing law is, or should be, to extend State protection to those most in need of help. In Victoria, the first workers to be helped were the white-workers. It was the wretched conditions of their work that formed the principal inducement for Sir Alexander Peacock—the inventor and devisor of Wages Boards—to pass laws for the setting up of Wages Boards.

The Wages Board system of fixing wages and settling the conditions of employment had its origin in Victoria. It was introduced into an Act of Parliament by Sir Alexander Peacock, the present Premier and Minister of Labour, in 1895, and the idea, it is said, was suggested to him when a dispute as to wages occurred between miners and mine-owners in his constituency. The employers and the miners met together, and, sitting upon a heap of mullock at the mine, discussed the aspects of their dispute, and, as a result, came to an understanding which enabled work to be immediately resumed.

This incident suggested the idea that such a conference could be legalized and made use of for fixing on fair wages and conditions. Professor Hammond has described the

Wages Board as "the most perfect system of collective bargaining yet devised."

Though the system of Wages Boards was designed to help those who were most helpless, it must be admitted that of late years Boards, like other labour tribunals, have been swayed by influences foreign to the question of appraisement of pay. Energetic militant unions have not been the only factors; strikes have had a very considerable influence also, but probably the discovery of "passing it on" has done more to deflect Boards from the legitimate exercise of their functions than anything else. The question of whether the cost of a higher wage can be passed on or not should not come into the consideration of a tribunal which is scientifically and properly endeavouring to make the wages fit the work. Comparisons of other wages and other work are legitimate, but not questions of the strength of the union, the possibility of strikes, or "passing it on."

The Evil of Unequal Pay.

Because of the lack of co-ordination between wage-fixing tribunals, the inequalities in wages which have just been mentioned exist. If the Commonwealth Court of Conciliation is right in awarding a wage of about 2/2¼ an hour to shearers, and 1/9 an hour to wharf labourers, then the Victorian Wages Boards can hardly justify their determinations of 8½d. an hour to a livery-stable employee and 5d. an hour to a white-worker, or, to put it in the opposite way, if the Victorian tribunal has acted on proper principles in appraising those wages at 8½d. and 5d., what kind of a scale of weights and measures has been used by the other in fixing 2/2¼ and 1/9? The aim of all legitimate labour law is industrial justice. In fixing rates so wide apart either the one tribunal or the other has failed to attain it. Either the Board fixed too low a wage or the Court a wage too high—the one is as industrially unjust as the other. If a tribunal fixes a wage that is unfairly low the injustice is apparent; the worker does not receive his due, the intention of the law is defeated, and

he becomes discontented. Let there be no misunderstanding of the evil of discontent—it is the genesis of strikes, slowing down, much of the ill-health, and indeed everything industrially bad; eliminate it and the labour problems disappear. If, on the other hand, a tribunal fixes a wage that is unfairly high, the industrial injustice is just as real as in the other case, and the evil consequences—reduced to terms of actual fact—are greater. When wages are too low the discontent thereby engendered is confined to the section unjustly treated; but when a section of the workers gets its wages fixed disproportionately high, all other classes are immediately affected with the microbe of unrest. They see their brother workers in the fortunate section soaring above them with a large advance in pay, and they set about to follow the same successful road. If the increase was obtained by means of a strike they are more ready to use that weapon if necessary; if by means of the wage-fixing tribunal, they clamour for a hearing; but no matter what the means, the result of a disproportionate rise in the wages of any one section is a general discontent throughout all the others, and a general feeling that by comparison they are not being fairly dealt by.

In order that the unrest due to this may be eliminated, and in order to secure more even practice in the work of wage-fixing, it is very desirable that some means of co-ordination be discovered and put into practice. Until this is done Courts and Boards will inevitably go on with their disjointed work, fixing disproportionate rates, and thereby manufacturing the evils which inequality of wages engender.

Wage-Fixing Formulas.

Without doubt the surest and shortest way to cause trouble from strikes is to fix disproportionate wages. If the Legislatures which passed our Australian Labour Laws setting up different tribunals for wage-fixing had realized this, it is hardly believable that they would have neglected to set measures and bounds to guide and limit the process. The powers exercised by Wages Boards, and more particu-

larly by Judges of Arbitration Courts, are greater from a monetary point of view than those exercised by any other tribunals. His Honor, Mr. Justice Higgins, in considering the terms of his Awards, is handling tens of millions. I have no intention of making any comment for or against the way that their Honors the Judges exercise their functions, nor as to the wisdom or otherwise which the Wages Boards show in carrying out theirs, but I want to emphasise the very remarkable fact, that the Parliaments have relegated the widest possible power to these tribunals without giving them the benefit of the assistance which they would derive if the principles of the exercise of that power had been laid down, or if some scale or otherwise for their guidance had been attempted. There is nothing in the whole gamut of State activity which is fraught with greater consequences as to the peace, prosperity, welfare and happiness of Australia than the fixation of wages. It should be the most scientifically exact of all State operations, yet we find it is the one that is most haphazard and open to the influence of chance. The amount of a wage arrived at by an Arbitration Court depends upon the strength of the evidence brought before it. The strength of that evidence depends largely upon the amount of time and money that has been expended in its preparation and upon the element of chance in the success of the argument and the way it is presented to the Court. Obviously a rich and powerful Union has a better chance of success than a weak one, and a perusal of the rates of wages that have been fixed lends some countenance to the belief that the powerful Unions have had better success in getting their wages raised than those who are ill-organised. The same thing obtains in the debate of the little Parliament of the Wages Board. The chances of the voting, the character of the representatives of either side, and the fortune of the debate, has much to do with the amount of the wage eventually decided upon. Yet all these things are quite apart from the proper scientific fixation of wage remuneration. The personality of the representatives of employers and employees on Wages

Boards, and the characteristics of the Judges of the Arbitration Courts, are undoubtedly a factor. If principles of guidance had been laid down with sufficient exactness to direct these tribunals, the mischievous inequalities which have been pointed out could hardly have occurred. Comparing the work of Civil Judges in such matters as arriving at a proper amount of damages for a broken leg in a railway accident, a breach of promise of marriage, or damages in any other action or tort, it will be found that very exact principles are at the command of the Courts to guide them, as well as case law and, in some cases, statutory provisions. These matters, though very important to individuals, are small from a national point of view as compared with the much greater work of wage-fixation, yet we find that in the smaller matter the Judges have the benefit of more or less fixed rules, while in the larger matter no attempt has ever been made to lay down principles of any kind.

Probably if Parliaments, when passing wage-fixing laws, had at the same time laid down wage-fixing rules, those rules would have been imperfect. They would have had to be altered many times before anything like scientific perfection could be reached, but that is true as to any rules for any similar purpose. Such rules in all cases must evolve. It is only by experience of their working leading to an alteration and an improvement here and there, according as necessities dictate, that anything workable could possibly be arrived at, but it is fair to assume that something could have been done if an endeavour to do it had been made and persisted in, that much of the absurdity and industrial injustice of unequal rates, with consequential strikes and unrest, could have been avoided if wage-fixing rules had been laid down. Now that we have had years of experience of the working of these laws, it is probable that such rules could be more successfully compiled than if they had been attempted in the beginning.

It is easier to point to the necessity for them than to compile them. The suggestions which follow are put forward with diffidence. They are obviously very im-

perfect, and the only justification for presuming to attempt such a herculean task is the necessity for making a beginning on it, for it is inconceivable that the power to divert millions, now vested in certain officials, Judges of Arbitration Courts, and members of Wages Boards, shall be allowed indefinitely to remain without direction. The formulas here submitted do not limit the present powers to grant high or low wages, but it is submitted they would have an influence in arriving at more even wages, from the fact that the amount allowed for skill, for unhealthfulness in the work, for casualness, and so on, would be earmarked. It would be clearly seen in the judgment how much had been allowed to a class of workers under each heading. Under either formula the lowest wage would be the same in every trade, the first formula providing for working upwards from the lowest wage, as is usually done at the present time, and the second formula providing for working downwards. It is thought that, if the composition of a wage could be seen with exactness, that is to say, where it could be seen how much for cost of living, how much for skill, and so on, the effect would be to prevent such an anomaly as is now frequently seen —an unskilled man in one trade getting a higher wage than a skilled man in another.

Neither of the formulas takes any account of the ability of the employer to pay. Although in several of the Australian Acts the principle is more or less directly affirmed that the scale of wages fixed shall be such as not to interfere with the progress of trade, *i.e.*, if the employers in the trade are able to stand higher wages, the tribunal is justified in granting them; if they are not in such a condition, the men must be content with less; it would seem that this is an unsound principle. The scientific fixation of the value of a man's work in the labour market surely has nothing to do with the ability of the employer to pay. The value of the commodity "work" is not affected, or should not be, by the question as to whether the man works for A, a rich man, or B, a poor man. The ability of the employer to pay high wages has in fact no

more to do with the amount of the wage than has such a question as the strength of the Union the man belongs to, the question whether a grant of higher wages will stop a strike, or any other consequential question. The only legitimate question for a wage-fixing tribunal is the assessment of the exact value of the work, having regard to the cost of living and the relative value and difficulty of the services rendered as compared with the current payment for services of greater or less difficulty. In the process of this assessment the amount of wages should be scientifically appraised according to the skill required, the nature of the work and its surroundings, its continuity, and the circumstances in which it has to be done. It is difficult to see any justification for taking into consideration any other factor.

Formula No. 1.

This formula is founded on the almost universal idea that the proper way to fix wages in a trade is to start from the bottom, giving higher rates to higher workers according to the amount of skill and other qualities required in their work. This idea involves some consideration of the expression "basic wage." There has never, as far as I am aware, been any clear definition of what this means. The expression is loosely used and often heard. What does it mean? In some minds it connotes "the lowest wage paid to any worker." If that meaning be accepted, then in Victoria the white-worker at 5d. per hour would be receiving the basic wage. That would hardly suit the purpose and meaning of many who have used the expression, because such a low basic wage as that would not enable a man with a family to keep body and soul together. In other minds the expression stands for "the lowest sum on which a man with a wife and three children can subsist in frugal comfort." It is that latter meaning that is taken here to be the proper construction.

Under this formula the lowest paid worker in any trade under regulation by Wages Board or Court must be paid at least the basic wage. The basic wage is repre-

sented by the letter "A," and in arriving at all wages above the basic wage the sum represented by the letter "A" is added to under different headings, according to the qualifications of the worker.

If, then, A represents the amount required to provide a man and his wife and three children with the necessaries of life on a frugal scale for a week,

Let B represent an extra sum allowed only where the worker must have special skill, special training, special knowledge, any special qualification or extra responsibility.

Let C represent an extra sum allowed only where the work is injurious, unhealthful, unpleasant, or specially arduous.

Let D represent an extra sum allowed only where the work is in ordinary circumstances casual, *i.e.*, where there are usually periods of unemployment between jobs, or where the work is only obtainable at certain seasons.

Let E represent an extra sum allowed only where the work must be done in the night hours or outside ordinary day working hours.

Let F represent overtime rates which shall be fixed in all trades, in the form of an extra percentage or proportion on the total of A, B, C, D and E, and shall be payable only for work done outside the ordinary working hours.

The task of a tribunal in arriving at a man's wage will be to add to A whatever sums it considers fair and proper under the headings B, C, D, and E. The tribunal will first fix upon the amount of A, which, as has been said before, will be payable to every worker in every trade. It will then allow under the other headings B, C, D, and E a sum of money to represent a proper recompense in whichever of those headings the worker is entitled to be paid under.

The workers' wages will therefore be represented in this way:—

A + B + C, or
A + C, or
A + D + E,

and so on, according as the work to be done varies in quality and circumstances. If a man requires some special skill, but his work is not such as to require an addition under the other headings, he will merely be paid A plus B. If a man works in unhealthy or unpleasant circumstances, but does not require any skill, his wage will be represented by A plus C, and so on. In all cases the sum of his wage arrived at in this way will be used as a basis for calculating the overtime rates—F—and such overtime rates will be paid only for overtime work.

In using this formula for women's wages, the basic wage A would require a different definition to the one here adopted, and a different amount would be represented by A unless the principle of equal pay for equal work were affirmed.

Formula No. 2.

This formula proceeds on an opposite method. First it is necessary to decide upon the highest wage to be paid in any trade for work which has the characteristics of skill, unpleasantness, casualness and night hours. In following this method it is believed that a more exact proportion of wages could be fixed for all classes of labour in relation to the degree of skill and other difficulties involved, than under Formula No. 1. The idea is to start with the assumption that a man is entitled to the highest wage, called here for convenience the paramount wage. No man would get the whole of the paramount wage unless he required skill, his work was unpleasant, with periods of unemployment, and with night hours. In almost every case a proportionate amount would be deducted according to the nature of the work.

Let A represent the full paramount wage. Let that be expressed in 100 units.

Let B represent the amount to be taken off where the work requires less than the fullest skill, special knowledge, responsibility, or other qualification. According as the

skill, &c., required in the work is less than full, an amount will be deducted from the paramount wage. Let the full amount be represented by .. .. 30 units

The whole amount would only be deducted where no skill, &c., is required in the work. If half skill is required, the deduction would be 15 units.

Let C represent the amount to be deducted where the work is not injurious, unhealthy, unpleasant, or arduous. According as the work does not require extra pay for its injuriousness, &c., the number of units deducted will be anything from none to .. .. 15 units.

Let D represent the amount to be deducted when the employment is regular. If the work is casual in its nature, that is to say, if there are periods—long or short—of unemployment, or if the work is only done at certain seasonal times, the full number of units (10) would be deducted. According as those conditions exist, the number to be deducted will be anything from none to .. .. 10 units.

Let E represent the amount to be deducted where the work is done in ordinary day hours. If the work is not done at night or in any inconvenient hours, the number of units deducted may vary from none to .. 10 units.

65 units. 100 units.

The total of these deductions in an extreme case will amount to 65, therefore the highest paramount wage that any man can receive will be 100 units, while the lowest possible wage in any trade would be 35 units.

When the ordinary wage is arrived at by this process it will be necessary to fix upon a rate higher than the ordinary rate for overtime. That will be done by fixing a proportion such as time and a half on the ordinary wage, time and a third, double time, and so on, according to circumstances.

Let us suppose the paramount wage is fixed at £10 a week. Each unit then would be worth 2/-, and every unit deducted for different causes as above explained would reduce the wage of £10 a week by 2/-. Thus, if a man were found to require, say, half skill, he would lose, say, 15 units. If the work had only occasional periods of unemployment, he would lose, say, five units. If the work were done always in ordinary day working hours, he would lose 10 units. That would be a total of 30 units lost, equal to £3, and his wage would be £7 a week, with proportionate higher rates for overtime.

Now, if it were possible to classify every kind of work into a table and decide with relation to the work done by every class of workman, the degree of skill, unhealthfulness, casualness, &c., the ascertaining of a man's proper pay would not involve a very great deal more trouble than that of referring to a table. Once those facts were ascertained, and once the amount of the paramount wage was fixed, a table could be arranged applicable to every possible kind of work, and if the task of classifying the relative position of every kind of work were efficiently done, we would then be able to say, under such a table as this, that whether labour was overpaid or underpaid, speaking generally, all classes of work had at least a fair *relative* rate fixed for it.

The Apotheosis of Simple Wage Determination.

The idea of classifying all workers according to the relative importance of the work done seems at first sight

so revolutionary that one almost hesitates to give expression to it as a possibility. The enormous power now exercised by wage-fixing tribunals, nevertheless, when one contemplates the time expended in discussing the proper wage for particular workers, suggests the steam hammer being used to crack the nut. A very high official in a neighbouring State, and a very highly-respected one, once said to me:—"The man who works with a long-handled shovel objects to having his wages fixed by a man who works with a short-handled shovel, because, if you please, he does not know the intricacies of the work." To most people this would seem absurd, but to the workers themselves it is very important that their wages should be fixed only by persons who fully understand all the surroundings of their work. Whether the tribunal be a Wages Board of experts, or an Arbitration Court with information by sworn evidence as to all the intricacies, the workers' anxiety is not difficult to understand. To most people it would seem reasonable and possible to classify all workers according to their relative skill, arduousness and the other conditions of their work. If that classification were made, it would be found that an enormous number of workers would be about in the middle classes, a very large number would be unskilled, and a few would be in the classes which deserved high pay. It would not be necessary to have a very large number of classes. Once the classification was made, the proper pay might presumably be ascertained by a process of referring to a table not unlike a railway time-table book. Before this could be done, however, the principle would need to be affirmed clearly and decisively that a worker's pay and classification must be made solely in relation to the kind of work he does, without any regard whatever to any other question or influence.

Passing It On.

When tribunals for fixing wages were first set up, it was with the idea that the employers would pay the wages granted. It was never dreamed that Courts or Boards

could give the workers higher pay out of the pockets of others than the employers. Yet this is what has happened. At first every request for a rise in the current rate of wages was bitterly fought, employers talked of being ruined, and having to close their businesses on account of increases in their employees pay. As experience ripened, however, employers in certain trades found an easy way out of their difficulties, and found too—in many cases—that it returned them more than they gave. The discovery was the process known as "passing it on." Since that discovery was made, the opposition to increases became, as a rule, very much less than before, and wages have mounted nearly, but not quite, as fast as the high cost of living, which is the offspring of passing it on.

One reason frequently advanced before Wages Boards and Arbitration Courts to justify an increase in wages, is that the employers can "pass it on." That means that the employers can, by slightly raising the retail price of the article manufactured by the trade in question, recoup themselves for the extra wages paid. In a great many trades this line of argument is very successful in obtaining an increase of pay that would otherwise be refused. There are other trades in which the cost cannot be passed on, as, for instance, the trade of gold-mining. The employers cannot increase the price of the gold they win, nor can they at will increase the amount of it. In such trades it will be found that wages have not been raised in anything like the same proportion as in others.

The possibility of passing it on as a reason for raising wages is usually advanced by the worker; he thinks he will benefit by it, and no doubt he does for the moment, but a little analysis will show that it is his undoing. While the worker in the particular trade gains a momentary advantage it is really the employer who benefits most largely. The worker does not know it, but he is playing the employer's game, for the obvious effect of passing it on is higher cost of living. The employer, in fixing the higher price of his article, cannot exactly pass it on—he

cannot fix an extra cost which will return him no more and no less than the extra cost in wages, therefore he fixes on an increase which will give him a margin on the right side. The employer, in securing himself a slight margin, is merely following a necessary rule of trade, but the result of this passing-on habit in the aggregate is very serious. The process has been carried out in such a large number of cases that the general increase in wages has been nullified by higher living cost, and in addition another result—never intended by the framers of labour laws has followed—the enriching of the employer. An endeavour to show how greatly the employer has increased his wealth is made in the examples given later on, and, although only a part of this greater wealth has been due to passing on, it is at least clear that the public has paid the cost—whatever it may exactly amount to.

What of the morality of the proceeding? It could never have been foreseen by our legislators that employer and employees would put their heads together and use the wage-fixing laws to help themselves out of the pockets of the public. In the process of raising wages and passing it on neither the employers nor the employees have any honest regard for the rights of other people. They are in reality entering into an unholy conspiracy to grant higher wages at the expense—not of the employers, but of the consumer, the public, who have had no opportunity of protesting.

The proposition amounts to something like this—the employees say: "Why should you oppose the advance in wages we are asking for—it will not cost you anything; all you have to do is to pass it on by an increase in the retail price and the public will pay—not you." The employer accedes to this proposal and plays the benefactor by allowing the rise in wages to be carried. In due time he raises his prices, and in return for his friendly acquiescence, extracts from the pockets of the public not only a reimbursement of the extra wages, but also something more into the bargain.

The public who pays is in no way a party to these assaults on its purse. The extra cost in the retail price is usually very small. Like the extra halfpenny on the 4-lb. loaf, which for Victoria alone spells an extra cost of £156,000 per annum, the increase seems negligible. As a rule, the consumer does not notice it. Only a little at a time is taken—not enough to be missed on a single item, but enough in the aggregate to make the public—if it only understood—get up in its wrath and rend somebody or something. Here are some examples:—

In 1916 a big strike of coal miners occurred. Mr. Justice Edmunds was appointed, with very wide powers under the War Precautions Act, to inquire into the facts and effect a settlement. In his judgment he granted the men a 15 per cent. rise in wages, and at the same time allowed the employers to pass it on by raising the fixed price of coal 3/- a ton. An ordinary tribunal's powers would have ended with the rise in wages, but this was a war-time Court with extra war-time powers, and so His Honour, acting quite within his jurisdiction was able, in effect, to say: "The coal miners shall have an extra 15 per cent. wages, and the public will pay it." Taking Mr. Knibbs' figures, this order works out as—

The number of coal miners at the date of the strike was 15,000. Their aggregate wages were £2,600,000 per annum.

The 15 per cent. increase amounted to £390,000. Over nine million tons of coal are used in Australia each year. Three shillings per ton on that would amount to £1,350,000. The difference between these sums in favour of the coal owners is £960,000.

The actual cost to the public must be considerably less than £1,350,000 because there is much coal used, not sold to the public, on which the 3/- would not be paid. The learned judge—as his judgment shows—intended merely

to recoup the employers, but the figures suggest that the real result was—

(1) The men got a rise of 15 per cent.

(2) The owners got a bonus equal to the amount produced by the extra 3/- per ton, less the 15 per cent. rise in wages.

(3) The public paid both.

Is there any way of justifying the taking of this money from the public in these circumstances? Is there any good reason why the employers should be relieved of the payment of any higher wages granted?

A rise in the price of coal is more serious than a rise in other commodities, because the effects do not stop with coal. Such a rise increases the cost of production all round. The price of so many necessary articles in every-day use is so intimately connected with the cost of power produced by coal that the consequences of that 3/- rise to the general public must amount in money paid in the shape of higher retail prices to a large sum, infinitely larger than at first appears, for coal power is used for travelling, cooking, producing, heating, and almost every-thing, and the public always pays the extra cost.

It is difficult to show with conclusiveness the effect of pasing it on in other trades. The examples which follow refer to manufacturing activities as figures are available in manufacture only. It is shown that the value of the production per worker has increased much more than his wages. This fact by itself could hardly be regarded as exact proof that increases in wages had been passed on—it might partly be accounted for by better machinery, better management, and by higher cost of material, but the increase in value of production is so large that it can hardly be disposed of in that way. The figures appear to furnish sufficient proof to convince most people that the greater value, or in other words, the greater price charged for the articles produced per worker, is principally accountable to passing it on.

These figures are taken from the Victorian *Year Book* for 1909 and 1915.

Clothing Manufacture in Victoria.

	1909.	1915.
Number of employees ..	8,540 ..	9,776
Average wage earned in a year	£51 8 0 ..	£64 16 0
Total value of finished output	£1,513,661 0 0 ..	£2,315,842 0 0
Average value of finished output per employee	£177 2 0 ..	£236 18 0
Therefore—		
The increase in wages per employee for the seven years was		£13 8 0
The increase in value of output per employee for the seven years was		£59 16 0

Leather Tanning in Victoria.

	1909.	1915.
Number of employees ..	1,444 ..	1,654
Average wage earned in a year	£89 18 0 ..	£132 14 0
Total value of finished output	£1,059,120 0 0 ..	£2,106,358 0 0
Average value of finished output per employee	£733 9 0 ..	£1,273 9 0

Therefore—

The increase in wages per employee for the seven years was	£42 16 0
The increase in value of output per employee for the seven years was	£540 0 0

Boot-making in Victoria.

	1909.	1915.
Number of employees ..	6,723 ..	6,619
Average wage earned in a year	£61 15 0 ..	£94 11 0
Total value of finished output	£1,487,789 0 0 ..	£2,436,673 0 0
Average value of finished output per employee	£221 5 0 ..	£368 2 0

Therefore—

The increase in wages per employee for the seven years was	£32 16 0
The increase in value of output per employee for the seven years was	£146 17 0

All Manufacturing Trades in Victoria.

	1909.	1915.
Number of employees ..	92,540 ..	108,468
Average wage earned in a year	£73 6 0 ..	£101 15 0
Total value of finished output	£32,898,235 0 0 ..	£51,466,093 0 0

Average value of finished output per employee	£355 10 0 ..	£474 6 0

Therefore—

The increase in wages per employee for the seven years was	£28 9 0
The increase in value of output per employee for the seven years was	£118 16 0

And these figures are taken from Mr. Knibbs' *Commonwealth Year-Book,* 1910 and 1916:—

Metal-working and Machinery, etc., Trades in the Commonwealth.

	1909.	1915.
Number of employees ..	49,753 ..	65,368
Average wage earned in a year	£104 1 0 ..	£128 19 0
Total value of finished ouput	£19,692,545 0 0 ..	£31,359,060 0 0
Average value of finished output per employee	£395 2 0 ..	£479 15 0

Therefore—

The increase in wages per employee for the seven years was	£24 18 0
The increase in value of output per employee for the seven years was	£84 13 0

Clothing and Textile Fabrics, etc., Trades in the Commonwealth.

	1909.	1915.
Number of employees ..	73,567 ..	78,952

Average wage earned in a year	£48 18 0 ..	£66 2 0
Total value of finished output	£12,572,309 0 0 ..	£19,535,906 0 0
Average value of finished output per employee	£170 18 0 ..	£247 8 0
Therefore—		
The increase in wages per employee for the seven years was		£17 4 0
The increase in value of output per employee for the seven years was		£76 10 0

Books, Paper, Printing, and Engraving Trades in the Commonwealth.

	1909.	1915.
Number of employees ..	21,943 ..	24,928
Average wage earned in a year	£93 1 0 ..	£114 11 0
Total value of finished output	£5,299,607 0 0 ..	£7,374,784 0 0
Average value of finished output per employee	£241 11 0 ..	£295 14 0
Therefore—		
The increase in wages per employee for the seven years was		£21 10 0
The increase in value of output per employee for the seven years was		£54 3 0

Jewellery, Timepieces, and Plateware Trades in the Commonwealth.

	1909.	1915.
Number of employees ..	1,800 ..	1,878
Average wage earned in a year	£87 9 0 ..	£110 7 0
Total value of finished output	£534,804 0 0 ..	£656,118 0 0
Average value of finished output per employee	£297 2 0 ..	£349 7 0
Therefore—		
The increase in wages per employee for the seven years was		£22 18 0
The increase in value of output per employee for the seven years was		£52 5 0

All Manufacturing Trades in the Commonwealth.

	1909.	1915.
Number of employees ..	266,661 ..	321,071
Average wage earned in a year	£79 3 0 ..	£103 8 0
Total value of finished output	£105,958,328 0 0 .	£169,086,700 0 0
Average value of finished output per employee	£397 7 0 ..	£526 12 0
Therefore—		
The increase in wages per employee for the seven years was		£24 5 0
The increase in value of output per employee for the seven years was		£129 5 0

Overlapping.

Employers have a just cause of complaint under this head.

In every one of the six States laws have been passed for fixing minimum wages. When the Australian States federated in 1901, it was recognised that although the State Parliaments had power to legislate in labour matters each within its own boundaries, they could not go beyond. It was seen that with competition between States there was a possibility of one State gaining an unfair trading advantage over another, through differences in trade and labour legislation. In order to set up an authority to secure even trading, the Commonwealth Constitution Act, Section 51 (xxxv.), gave the Federal Parliament power to pass laws for "Conciliation and Arbitration for the prevention and settlement of Industrial Disputes extending beyond the limits of any one State."

In practice it has been found that these words cover a very large number of disputes which at first sight would appear to be confined within the limits of one State, and it is further found that when the employees wish to approach the Commonwealth Court they can without much difficulty manufacture a dispute in an adjoining State and thus give the Court jurisdiction. As a result the Court has exercised its very wide powers in a very large number of trades, and employers find themselves under two tribunals. They may be working under a State award when they find, after having made adjustments in their businesses to conform to its requirements, they are cited to appear before the Commonwealth Court, and eventually have to obey two awards, which fix different conditions and varying rates of pay. The Courts have decided that each employee must be paid under the award which gives him the highest pay. As a rule the Commonwealth Court fixes higher pay than the State, but this is not without exception.

Although the Commonwealth Courts' powers are very much wider than the States', there is one weakness. It cannot make a common rule. Only those employers who

are cited to appear are affected by its award—any not summoned and any new employers setting up in business in the trade concerned after the making of the award cannot be forced to obey it. This has caused a practice in recent years of using the State tribunals, by getting them to adopt the provisions of the Commonwealth award and embody them in the State award, and so accomplish the cure of the defect in the other Courts' powers by making it a common rule. The employers strongly object to this, and say they should not be fired at from two different directions, they should know what they have to meet so as to be prepared to meet it.

A remedy for this state of things has been advocated since 1912 by Mr. Holman, Premier of New South Wales. At the Conference of Premiers in Melbourne in that year, he pointed out that the States could not hope to get the Federal Parliament to give back any of its powers over labour matters (a Labour Administration then existed), and went on to say that if we could not get back power the only remedy was to "hew our way out of the tangled undergrowth with an axe" and give the Commonwealth full and sole control, the States resigning all power over labour regulation, and so accomplishing one single tribunal for the exercise of all powers.

An alternative proposal was prepared by me in May, 1915, as follows:—

Hand over to the Commonwealth complete and exclusive jurisdiction over—

Employees on sea-going vessels,
Waterside workers,
Shearers,
Coal miners,
Agricultural implement makers,
Bread bakers,
Engine-drivers,
Flour millers,
Slaughterers (for export),
Tramway employees (except State trams),

on condition that, in return for exclusive jurisdiction over these trades, all power over other trades now vested in the Commonwealth Court of Conciliation and Arbitration be given up to the States.

The States, in order to be in a position to deal effectively with disputes in State trades extending over more than one State, could proceed as follows:—

A new tribunal to be erected, to consist of the Judge of the State Industrial Court (or equivalent State Court) and the Secretary of Labour (or equivalent officer) in each State.

This tribunal to be erected as soon as any two States pass the necessary legislation. Other States to be allowed to join at any time.

The tribunal to have the following limited jurisdiction:—

Whenever any person or body of persons in any State subject to it shows by affidavit that an industry is injured by unfair competition arising from conditions of employment in any other State which is also subject to it, the Court of Industrial Appeals in Victoria or the Judge of the Industrial Court in any other State may refer the matter to it.

A tribunal consisting of the Judges and Secretaries of the States concerned shall thereupon meet and take evidence, and may alter and amend the Determinations or Awards of the States concerned as to all or any of the following matters in the trade so referred to it:—

(*a*) Wages and overtime rates;
(*b*) Hours of labour;
(*c*) Proportion of apprentices, improvers, and juvenile labour;
(*d*) What workers shall be regarded as belonging to the trade;
(*e*) Conditions under which defectives may be employed at less than the minimum wage;
(*f*) Any other conditions of labour in the trade concerned which are referred by the State tribunal.

Every Order of the tribunal shall remain in force for a period of three years, and shall be final and without appeal, and may not be altered by a Wages Board or State tribunal until after the expiry of the said period of three years; but the tribunal may at any time, on the application of any person or body of persons, revise and alter its own Order, and in that case shall make a new Order.

Slowing Down.

The worker of Australia must blame himself for the rise in cost of living to the extent that it has been accelerated by his own dishonest practice of designedly doing less than a fair day's work for a fair day's pay. This practice is not by any means universal, but it is widespread, and has undoubtedly contributed appreciably to the lessening of the purchasing value of his pay.

Although specific instances of this practice could be given, it would be impossible to do so without naming, and perhaps injuring, individuals. A number of detailed cases of slowing down were given in a report of the Labour Department, Melbourne, prepared by me, dated 15th May, 1916. The existence of this practice is so well known—and it is not confined to Australia—that it is not here necessary to adduce any further proof of it.

Assuming, then, that slowing down is practised, what has this to do with the question of the working of our labour laws?

One has but to remember that the basic principle of our wage-fixing is by the clock—a worker must be paid a fixed and certain sum at the end of a week of a fixed and determined number of hours. He must get his pay no matter what happens. He has—at least in recent years—little fear that his employer will take the only remedy available, and dismiss him—his place, owing to the scarcity of labour, could not easily be filled—therefore in comfortable security he is able to take his time, and therefore our laws act as a sort of protector to the lazy man.

If twenty workers are working honestly at the same kind of work for a week, it will be found that at the end

of the run each worker has made a different number of pieces, or done a different total value of work, from any one of his fellows. It may be the best has done 50 per cent. more than the worst; yet under the time system the law gives the best and the worst the same minimum wage. The man at the bottom does not necessarily endeavour to increase his output. He is protected by the law and has no anxiety, for his employer, except in those trades in which piece-work prices have been legalized, cannot pay him according to his value. He is paid for the time he works, not for what he does; but the best man and the others are in a different case. They are not encouraged to do more than the slowest man. Why should they exert themselves to do more when, under the law, there is no reward for their greater output?

There is no doubt this payment by the clock has caused many men to slow down, has lessened national accomplishment, and has helped to increase cost of living. It is not true, however, that this slowing down is universal. The vast body of Australian workers are probably the most efficient in the world, but payment by time does not encourage them to do their best, and their efficiency is kept at its present level in spite of, and not because of, our labour laws.

Our method of paying by the clock must be regarded as having some connexion with whatever slowing down there is.

The effect of thus limiting the output is a matter of domestic and local concern. It must inevitably increase the cost of production, and consequently the cost of living. The greater the extent of such a movement the poorer will be the wage earners, and the purchasing power of wages will decline in exact proportion to the lessening of production. Suppose, for instance, the number of bricks to be laid by each bricklayer is lessened further and further—the time would come when the cost of laying bricks would be so high that no more brick houses would be built—with no work for brickmakers, brick carters, or bricklayers, and higher rents for all.

One idea underlying limitation of output appears to be that the employer will pay for it while the employee will have an easier job. It can be shown that this is a fallacy. Suppose this practice were to be applied to the growing of wheat. More and more men would be required in proportion as the output was lessened, and wheat would become more costly. With wheat at a higher price the farmer's profit would probably be greater, but the loaf of bread would be dearer, and the net result, as far as the working class is concerned, would be that every workingman's home would be taxed in order that the farmer should have more profit, and the farmer's men should have less work. A man and his wife with three children consume about 50 ozs. per day, or, say, five and a half large loaves per week. For every 1d. the loaf was raised that man would have to pay 5½d. per week, and possibly 5d. of the 5½d. would go into the pockets of the farmer, the miller, and the baker. If this calculation is correct, the workingman householder would be paying 5½d. in order that the farmer's man, the miller's man, and the baker's man should have ½d. divided up between them.

A writer in *The Round Table* for June, 1916, says:—

"The most fundamental principle to remember in all industrial problems is that the remuneration of capital, labour and enterprise all come from one source, and one source alone, the product of their joint activities. However they may differ over the shares which each get out of their partnership, they have all to be paid from output; there is no other source. If inefficiency of management, restriction of output, want of enterprise, extravagance and mutual hostility diminish it, increase its cost or retard its growth, there is so much less to go round, and either one party or all will suffer."

Another idea in the minds of those who advocate the practice is that the man who works hard is keeping another man out of employment by doing work which, at a slower pace, would require two. "Don't scab upon the unemployed by working hard," said one notice, "slow work means more jobs." If the worker were not a member of the community he might perhaps indulge in this form of madness without any penalty to himself, but he is a member, and every loss he inflicts on the body politic, he

must share in himself. The greater the damage done to the general prosperity, the greater the suffering of the worker. His loss will be in exact proportion to the mischief done.

We in Victoria are a commune of about fifteen hundred thousand living in close touch with the rest of the world. Suppose we were on another planet, and were the only inhabitants. There could, in that case, be no importations of food or goods, and the community would depend entirely on the production of its units. If there was any going slow there would be no chance of making up the deficiency from outside. Money could not be borrowed and made to produce an apparent prosperity by the purchase and bringing in of foreign merchandise. The limitation of output would have a direct effect—there would immediately be less food, less clothes, and less goods of all kinds, and as the go-slow doctrine became stronger the supply of necessaries would decrease until there would be insufficient to go round. Then would the effect of this practice be demonstrated.

If the commune were smaller—instead of fifteen hundred thousand, if they were only fifteen, the result would be the same, but the effects would be more apparent. In so small a community there could not possibly exist the fallacy of limiting the output which finds a place in the larger populations.

The practice of limitation falls most heavily upon the workers who practise it. The man who goes slowly at his work is not helping himself and his fellows, he is gradually—although he may not see it—weakening his own position by lowering the purchasing power of his earnings. The true friend of his class is the man who does a fair day's work for a fair day's pay.

Payment by Piece-work Prices.

This would undoubtedly be the best answer to slowing down, but our labour laws are defective in this connexion, for they prevent and forbid the employment of

the worker on piece payment in all occupations regulated by law, except in those trades in which piece prices have been fixed or allowed by the Wages Board or Court.

Piece payment is not applicable to all kinds of work. It is suitable for all repetitive work, especially factory work, but it is difficult to apply it to most kinds of clerical or mental work, to foremen, to work of a varying nature where the workman's job frequently changes, or to most kinds of repair work.

Wages Boards in Victoria have power delegated by law to fix or to give permission to the employers to fix piece-work prices which must be based on time wages; that is to say, the piece prices must be such that an average worker, working at an average pace, will earn at least the minimum time wage.

Of a total of 147 Victorian Wages Boards, 77 have exercised this power. In the remaining 70 trades regulated by Boards, any employer who pays by piece prices is liable to prosecution and punishment by fine.

The New South Wales *Industrial Gazette* of 17th June, 1917, gives a list of 264 awards in force. In only 72 of these awards have piece-work prices been allowed.

In the other States the same state of things obtains.

Trades Unions oppose piece-work payment here, as in other parts of the world, and their opposition has prevented a more general application of it. The hostility has been so great that strikes have occurred against it, and the strike method of attempting to prevent piece payment by force has even been employed in trades where the tribunal has fixed prices, and so legalized piece payment. A cardinal difference, however, exists which distinguishes piece-work in Australia from similar payment in other parts of the world, and this distinction seems to have been overlooked by Australian labour leaders. Here there is a safeguard in the Arbitration Courts, and Wages Boards which fix the price per piece and the employer cannot cut down that price. He must get the sanction of the tribunal which has fixed the price before he can lower it, and that fact takes away the danger which un-

doubtedly exists elsewhere of the employer cutting down piece prices till the worker is no better paid than he previously was under time rates. It is a well established fact that in Europe and America employers have fixed piece prices which paid the worker well—then, when the number of pieces increased and the worker greatly augmented his earnings, the employer cut down the price per piece, and so reduced the earnings of the worker to his own profit and advantage, and when the number of pieces produced again through greater skill, better methods, and more strenuous effort increased, the employer again lowered the piece price until the worker found he was unduly speeded up to a point approaching the breaking limit with little or no increase in his monetary reward.

The knowledge of this causes the worker to oppose piece payment, but, as has been shown, the fact that it cannot obtain in Australia, owing to the safeguards the law provides, has been overlooked.

The payment of the worker according to the quantity and quality of the work done would, notwithstanding the opposition, help the working man. It would reduce the cost of living by lessening the cost of production. It would more fairly recompense him than time wages, for under piece payment he can work fast or slow as he chooses, the payment fits his performance, he can stop and rest when he pleases, he can begin his work or stop when it suits him, exactly according to his strength, energy, and inclination—if he is a weakling (and, unfortunately, there is a proportion of defectives everywhere) he is not debarred from working at his trade through not being up to the standard, while at time wages he may be unable to get work through being below the average.

Many workers have lost their places through being below the standard. When minimum wage fixing was first proposed it was said that to insist on a minimum wage involved forcing the employer to insist on a standard capacity in the worker, and that as minimums were fixed all workers below the average would be discharged. The experience of the Labour Department shows that this

argument was well founded. The inelastic minimum wage does not fit the slow and the fast worker alike, employers will not keep slow men while they can get faster ones, and so the law has pushed many slow workers out of employment. With piece payment, which fits all workers, fast, average, or slow, this would not have happened.

The loss of employment caused in this way has been much less than it would have been with a more plentiful supply of labour; but, even with the present conditions, some men are out of employment through being unable to reach the standard of the average performance, and some others are forced to come to the Labour Department and obtain a licence to permit them to work at less than the minimum wage.

Piece payment as it obtains in Australia is the fairest form of remuneration so far tried, and, in addition, is the most advantageous for employer, worker, and the community alike.

Unionism and Strikes.

In Great Britain, where the war has brought labour questions into prominence, there seems to be a predominance of expert opinion in favour of compelling all employers, and all employees, to join unions. This idea appears to have been reached partly because of promises of recognition made to unions of employees, and partly because of the belief that it will secure the authority of the unions on the side of industrial peace. We have had ample experience in Australia of the futility of such authority as a strike preventer. In New Zealand they have had a still more direct proof of its failure, for it will be remembered that the earliest Arbitration Act passed by Mr. Richard Seddon was entitled "An Act to encourage the formation of Industrial Unions and Associations, &c." It was dated 31st August, 1894, and gave the workers a Court of Arbitration.

The idea dominating the mind of Premier Richard Seddon at that time was that the authority of the associa-

tions would be enlisted on the side of industrial peace, and that their corporate control over their members would prevent injurious strikes and lock-outs. For the period of about six years, during which the Arbitration Court was raising wages, his confidence appeared to be justified, and New Zealand came to be regarded as a land without strikes, till, as time wore on, workers finding their benefits were not so great as some of them had expected, became discontented with the new order of things and began to look for something better, and disturbances occurred. These gradually became more frequent, till they culminated in the great waterside workers' strike of 1913. That strike began in October, and lasted till the end of December. In this case union authority as an anti-strike force definitely broke down. It was the union that called out the workers. Mr. Seddon, in giving arbitration to the unions, believed that they would insist on their men going to the Arbitration Court with their grievances instead of resorting to the anarchical strike. He did not live to see that the unions whom he trusted to keep down strikes would choose a time when they believed circumstances would ensure victory, to plunge New Zealand in the greatest strike in its history.

The following tables gives some idea of the world's strikes in 1914 (the latest figures). They are compiled from the *Monthly Review of Labour Statistics*, U.S.A., Vol. 2, No. 2, 1914, and Mr. Knibbs' *Labour Bulletin*, No. 8, of 1915, and *Labour Report*, No. 6, of 1916:—

Country.	Number of Disputes. (1914.)	Number of Disputes per 100,000 Inhabitants.
Australia*	337	6·8
United Kingdom ..	999	2·2
Italy	740	2·1
Germany	1,213	1·8
France	659	1·7
United States	1,080	1·1
Canada	44	·54

*The number of strikes in Australia in 1915 was 358, equal to 7.3 per 100,000 inhabitants. The number of strikes in Australia in 1916 was 508, equal to 10.3 per 100,000 inhabitants.

It may be taken as a fact, proved by experience to the point of demonstration, that Australian unionism has failed as a strike deterrent. But there is a very distinct difference between unionism as it exists here, and what is contemplated in Great Britain. Here we have never had any experience of compulsion. Men join a union or not as they please, and naturally make their choice according to their apparent interests. Some unions succeed in roping in all, or nearly all, in the trade, but many only get a small proportion of the total number. It is not easy to define exactly the classes of men who refrain from joining, nor to lay down any rule to explain why some unions are so complete while others are not. The causes vary with circumstances, but it may be at least asserted that where the workers are in close communities, or can be easily gathered together, the unions are strong and highly organized. Thus, coal miners, who are found only in groups in the localities of the mines, engineers, shipbuilders, wharf labourers, ironmoulders, hatters, and others engaged in manufacture in cities, who can easily meet and discuss their interests, all possess very complete organizations, while pastoral or agricultural workers, who are scattered and apart, or white-workers, who work largely in their own homes and are as a class very poor and mostly women, are at the opposite end of the union scale.

Appended is a table compiled from Mr. Knibbs' *Labour Report*, No. 6, 1916:—

Strength of Unions, 1915.

	New South Wales.	Victoria.	Queensland	South Australia.	Western Australia.	Tasmania.	Total.
No. Trade Unions	203	161	89	87	104	66	415
No. Members	241,979	141,993	58,310	39,264	35,980	9,346	528,031
Estimated No. of Employees, 20 years and over	455,967	329,530	164,965	97,459	90,530	42,155	1,182,698
Percentage of Unionists to total Employees, 20 years and over	53.1%	43.1%	35.3%	40.3%	39.7%	22.2%	44.6%
Percentage of Male Unionists to Male Workers, 20 years and over	61.7%	51.5%	40.7%	48.2%	44.5%	25.8%	52.2%
Percentage of Female Unionists to Female Wage Earners of 20 years and over	13.5%	16.4%	7.1%	6.9%	10.8%	5.5%	12.8%
Percentage of Unionists to Population	12.9%	10%	8.6%	8.9%	11.3%	4.6%	10.7%

There are no figures available to show the number or percentage of unionists in the separate trades. The union secretaries do not give this information for each trade, as it would disclose the affairs of the union. The only identifiable classes of workers who can be said to refrain from joining their fellows in a union are—

(*a*) Foremen, who are a sort of link between employer and employee;
(*b*) Wasters, who are too improvident to pay their dues;
(*c*) Workers who, because of their independent spirit, or because of some personal peculiarity, or for some other reason, are at loggerheads with unionism; and
(*d*) Female workers.

This is a very imperfect classification, but causes are so various that it is impossible to do much better. It is estimated from Mr. Knibbs' *Labour Report,* No. 7, 1917, that there are, roughly, in the whole of Australia, the following *female wage-earners* of 20 years of age and over:—

Total number of female workers ..	229,118
Number of female unionists	39,408
Number of female non-unionists ..	189,710

If unionism were made compulsory, *i.e.,* if employers were prohibited from giving work to any but members of a union, the effect in Australia would be (along with other consequences) that each union would comprise all the workers in the trade instead of, as at present, a greater or smaller section of them; and whether the bringing in of those not previously members would increase the wisdom and peace-loving propensities of the associations or not, the union would at least be a complete body,

capable of speaking with a corporate voice, and of expressing the feelings of the trade in a representative manner.

There would be many advantages in this, and probably the verse, "In the multitude of counsellors there is safety," inscribed in the tiles flooring Queen's Hall, at Parliament House, Melbourne, would prove true in the larger bodies of unionists. Strikes are caused, as a rule, by the few rather than by the many, and it may be conceded that the greater the number of workers to vote as to a strike, the greater the probability of the strike being vetoed.

Unions of employers would, in the same way as those of employees, speak with authority, and voice the wishes of all the employers, but the compulsory coalescing of employers (as distinct from the employees) would probably have a very rapid and palpable effect in the lessening of industrial disputes. Employers would be brought into closer connexion, with the result that a more united front would be presented against strikers than ever before.

One possible evil may be mentioned here in passing. The mischievous and oftentimes wicked strikes which have scourged Australia, more particularly since the beginning of the war, have been made possible only through combination among workers. Trades Unions and labour associations were so powerful and so highly organized that they had at their command not only their union forces but also the assistance derived from the influence of the fact that the Commonwealth Ministry and every one of the six Australian States Ministries, except that of Victoria, was a labour administration. This fact existed for some years prior to 1916, and these governments were admittedly under the dominance of outside bodies of men, not members of Parliament usually referred to as the labour caucuses, and every labour member had signed a document setting forth the aims of labour called the labour platform. Concurrently Australia has had more strikes and lost more through strikes than in any previous equal period, and has topped the world's record in that connexion.

Yet this remarkable combination of circumstances was probably only one of the least potent causes of the strikes,

and other influences were greater. It is a fact that employers apart from temporary association for trade purposes have through all the years of history shown themselves incapable of combination. It is certain at least that in Australia they have up to the present been incapable of complete combination, and during these war-time strikes employers have only in a few instances put up any serious resistance. In the majority of cases the men's demands have been conceded with no fight; sometimes unreasonable demands have been acquiesced in without any strike at all. There are two reasons for this. The employers not having any real cohesion are unable to depend on one another. If employer A puts up a fight, employer B may concede the demands and get a trade advantage of A through keeping his business going, and at the same time indirectly help the strikers to fight A by means of the money they earn from him. In the absence of an organization with power over its members no serious opposition to a strike can be offered. The other reason is that with so much loan money in circulation it has paid traders better to give the men what they ask and "pass it on," and there is reason to believe that cases are not wanting where strikes were welcomed, if not encouraged, by sections of employers who made more money by "passing it on" than they paid out in extra wages.

Now let us take a small flight into possibilities.

Suppose that under compulsory unionism employers put up an organization with plenary powers; that those powers included means of coercing any employer who did not abide by the orders of the executive, and that a vast fighting fund were established. If only 20/- for every £100 paid in wages were paid into a fund by employers throughout Australia the total would in twelve months be £1,300,000.

With such a weapon, placed in the hands of employers, would not the danger arise of it being improperly used? The power would be greater than that which the workers have ever wielded. Would the employers be considerate

enough to refrain from using it except to stop strikes, and might it not become so powerful as to form a combine, a corner, a trust—call it what you please—of greater danger to the community than anything connected with labour hitherto experienced?

I think the proper answer to this question is—The worker has through Labour Ministries and unions possessed for years a paramount power, and has not seriously misused it in trade or industrial matters. Why should such power be more dangerous in the hands of the employer?

One very distinct advantage from compulsory unionism would be the disappearance of such troublesome questions as "the open shop" and "preference to unionists." In connexion with these two questions, probably more strikes have occurred than in connexion with any other two causes that could be named. With all workers members of the union, the term "open shop" would lose its meaning, and the irritation centering round this old sore would be removed. In the same way Arbitration Courts would no longer have the responsibility of ordering or refusing to order preference to unionists, and the jealousy between unionists and non-unionists which has down through the years been so productive of bitter feeling would be a thing of the past.

Taking the question as a whole, it is not easy to see that any undesirable results would be likely to follow compulsory unionism. If any harm to the general community would ensue, it is not apparent, but on the other hand the good effects mentioned above, and possibly others not thought of, would follow. The advantages appear to outweigh the defects.

It would, however, be impossible to legislate compulsion unless at the same time the law enforced moderation in union rules which regulate admission to membership. It would be necessary to limit the entrance fees. A case occurred in Victoria many years ago of some felt hatters who arrived from England. According to the newspapers of the day, they were refused admission to the union until

they paid £21 per man. If the law said "only unionists shall be employed" it must also see that the process of entering a union is so easy and the fee so small that no decent worker will be debarred. The question of the power of a union to expel a member would also have to be dealt with, for expulsion would involve the severe penalty of shutting out the person expelled from all employment in the trade. These questions would have to be taken in hand, and could probably be successfully solved.

The Causation of Strikes.

It is quite a common thing nowadays for a section of workmen to go on strike and to be rewarded for their act by a substantial increase in their wages. This has been done so often that most of us are beginning to take it as a matter of course, yet nothing could be imagined more carefully calculated to encourage strikes. Other sections of workers follow the lead of the section that has obtained the increase and go on strike too, and indeed it would be extraordinary if they did not do so. The blame for this sort of thing must be taken by the community; we cannot blame the men for desiring higher wages and taking the most direct road that appears to them open to get them.

If a sufficient majority of the community were seriously in earnest about the necessity of doing away with strikes and their attendant misery and loss, there can be no doubt these industrial calamities would diminish in number and mischievousness. With a sufficient force of public opinion against it, no strike has ever yet succeeded. Of all the weapons included in a national armoury the weapon of force is the weakest. To try to prevent strikes by force would probably prove much less effective than to do so by using the milder but more compelling power of public opinion. In Australia public opinion has hitherto mostly failed to sufficiently range itself against strikes. The people do not realise the wastefulness and unnecessity of them; yet it is clear that, if we go on as we have recently been doing, our bountiful Australian resources will be dis-

counted, and not only the working man but the whole community will sink down to a comparatively low position in the scale of prosperity and culture. The method of discouraging strikes adopted in Canada is based entirely on the idea of directing public opinion. Strikes are not unlawful there. No laws are in force there imposing penalties such as we have in many parts of Australia. (It is true that our penal laws in Australia are not carried out, and perhaps that accounts for a good many of our strikes.) In Canada they merely require that persons intending to strike or lock-out shall give notice. A Board is then appointed whose functions end with an inquiry into the cause and merits of the matter and a publication of them. The idea is to range public opinion against the side that is in the wrong. The most recent figures obtainable are for 1914. In that year Canada had for every 100,000 inhabitants .54 strikes, while Australia had 6.8. In 1916 the 6.8 had risen to 10.3. There are too many people in Australia who have some confused idea that the worker is getting some justice out of strikes that he would otherwise fail to get. Those people do not realise that what the workers can get by strikes they certainly could more easily obtain by arbitration if their cause is just, and that appeals to the legally constituted tribunals would be much less mischievous to the community.

The fact that a large proportion of strikes result in a rise in the strikers' wages needs reforming out of existence, so that the workers shall be led to appeal to the tribunals which have been given them, instead of upsetting things by striking. If some prohibition were imposed on tribunals preventing them from raising wages within, say, three months of a strike, the recent strike mania of Australia would be considerably allayed.

Strikes in Australia have been encouraged by the success of other strikes, and by the fact that the strikers have usually all to gain and nothing to lose by downing tools, and the great increase in their number is largely due to that encouragement; but a still more fruitful cause is to be found in unevenness of wages. A very cursory exami-

nation of the wages fixed will show that some men are getting relatively too little or too much when comparison is made with rates of wages to other similar workers. This unevenness in wage payment must inevitably cause discontent. It is the same everywhere and in every branch of activity where men are rewarded by salary or wages. If you want to make a man discontented, show him that another man doing the same or similar work is getting more pay, and when, as in our case, this unevenness of pay is the result of the law and not of ordinary chances or circumstances, his sense of injustice is the greater. Yet as long as we have separate tribunals—counting Wages Boards and Courts of Arbitration throughout Australia there are probably about 500—it is inevitable that the wide powers they possess of fixing wages high or low as they please will be used in such a way that wide divergencies in rates will occur. These divergencies, in some cases resulting in one man getting in the vicinity of double the amount of another doing similar work, have been, in my opinion, the most fruitful source of strikes. The necessity of co-ordinating the work of these tribunals has been in the minds of legislators for a long time, but they have not yet hit upon any practical plan.

It is questionable whether any plan can be evolved for bringing together the work of the various tribunals so as to attain what really is the most important consideration of all, namely, that the wages fixed for all classes of work shall be *relatively* correct. Our great trouble now is that wages are uneven, that is to say, relatively out of proportion. We have apparently never realised in setting up our laws that workmen must, in order that both industrial peace and industrial justice be attained, be paid not only fairly, but *relatively* justly, and it seems to me that nothing could be more certain to happen, when we set up a large number of tribunals who work entirely without relation each one to any of the others, than the present disproportionate scales of wages under which we are working. I do not think that any practicable and successful scheme of co-ordination can be found; I believe that the only remedy

is to have one tribunal, and only one tribunal, for the whole of Australia. With more than one tribunal it would seem impossible to have wages fixed in proper relative proportion according to the value and difficulty of the work, and with the 500 tribunals that we have set up, confusion is inevitable. Our Courts and Boards have had no choice but to deal each with small sections of employees. One tribunal would deal with all sections of workers throughout Australia and deal with them on an even basis, so that, when it had finished its work, whatever pay was fixed would be relatively fair when compared with the reward for other similar work. I want to emphasise that it is imperative that whatever wages are fixed should be *relatively right in comparison with other rates.* One tribunal could classify all kinds of work from the most highly skilled and difficult at the top, right down in carefully considered grades to the most unskilled and simple at the bottom. It would then be an easy matter to fix the rates of pay, and so it would be impossible to have the inequalities we are at present suffering under. The most important part of the task would be the grading of work. Once that were done, the fixing of the wage for each grade would be comparatively simple, whether the plan were adopted of working from the basic wage at the bottom and giving more pay as the value of the work rose in the scale, or whether we proceeded by working downwards from the paramount wage and deducting according to the nature of the work, as set out in the formula in this book. The value of each kind of work having been fixed *without any consideration as to anything but the actual work itself,* it would then remain for the tribunal to add percentage rates where, for instance, the work was done in the Northern Territory or some other inaccessible or unhealthy part of Australia. That, I submit, should be more in the nature of an allowance. The value of the work, no matter in what part of the continent it were done, should be regarded as the same; the extra payments under exceptional circumstances should be regarded as allowances. Many allowances would have to be given to suit various circumstances—as is done now

by Courts and Boards, but I believe they should be regarded as different from wages, so as to preserve the idea that wages are the sum which properly represents the exact value of the actual services rendered in normal conditions. If this principle were followed the work of deciding what conditions of work were abnormal and what allowances were to be given accordingly would be within the compass of one tribunal and the officers appointed to assist it. It would certainly accomplish much greater relative correctness in wages and remove many anomalies, and would perhaps prove the most successful strike-lessener that could be devised in connection with our laws.

What Strikes Cost the Workers.

Mr. Knibbs' *Bulletins* show that in 1913 the number of persons earning salary or wages in Australia was 1,200,900. These figures are taken from *Labour Report* No. 6, 1916, page 108. The population of Australia was at the same date 4,872,059, and by the ordinary methods of calculation the total number of salary earners, wage earners, and their wives, families, and dependants, was 3,147,050, or 65 per cent. of the whole population.

Since 1913 this proportion has probably risen to 70 per cent. or more, of which about 10 per cent. belong to the salary-earning class. This estimate is based on the result of inquiries made at the office of the Commonwealth Statistician.

Mr. Knibbs does not differentiate between salary and wages in his figures, and indeed it would be impossible to do so satisfactorily. For instance, is the 20/- a week earned by a girl clerk in a bank salary or wages? If it is classed as wages, then at what rung of the ladder between the clerk and the General Manager does the pay cease to be wages and become salary? If it is classed as salary, then how can the £10 a week earned by the head worker or foreman in an engineer's shop be classed as wages?

For the purpose of this argument it is assumed that

the wage earner with his dependants constitutes 60 per cent. of the population.

It is uttering the merest truism to say that strikes increase the cost of living, but the working man, who comprises with his wife and family 60 per cent. of the population of Victoria, and about the same proportion of Australia, has no idea of the extent to which he punishes himself when he indulges in a little limelight, a treat of seeing his words and acts recorded in the papers, and the luxury of a stop-work meeting. He does not trouble much at the prospect of the article he helps to make being raised in price, but that is one of the most tangible and immediate effects of his lawless act, and it explains to a large extent the fact that the cost of living in Australia has risen 11:1 per cent. more than wages.

Every strike that leads to an increase in the cost of any generally used article hits the whole body of workers, and affects them more quickly and directly than any other class in the community. The case of bread is the most easily followed example. In all other articles used by the working class the effect is the same, but it is less easy to reduce the loss to exact figures.

In this example it is necessary to assume that as the result of a strike in the bread-baking, flour-milling, or wheat-growing occupations, the master bakers have raised the 4-lb. loaf ½d.

Every week in Victoria, 1,440,250 4-lb. loaves are consumed (slightly less than 10 oz. per head per day for every person over three years old)—

		£	s.	d.
1,440,250 loaves at ½d. =	per week ..	3,000	10	5
	per annum .	156,027	1	8

Therefore, seeing that the workers and their wives and families comprise over 60 per cent. of the whole population of Victoria, the extra halfpenny costs the workers in this State £93,612 per annum.

If it is borne in mind that the working men and their dependants comprise over three-fifths of the whole popula-

tion, it is obvious that every strike which has the effect of causing the employers to "pass on the cost" by raising the price of any necessary and generally used commodity robs the working class of three-fifths of the cost so passed on. This example makes it clear in the case of bread, but it is equally true in the case of all other necessaries. The careless striker may think he will take the extra money from his employer; as a matter of fact three-fifths of the extra money will come out of the pockets of his brother workers and his own. If the strike has been successful, and wages have been increased, the strikers will get a rise in wages, but the employer will get the biggest reward.

A concrete example is to be found in the coal strike of 1916. The figures obtainable are not very complete, but are sufficient for a few simple deductions. The strike began on 1st November, and lasted till 2nd December, 1916, a period of 32 days. The direct loss in wages cost the coal miners the sum of £225,725. Mr. Justice Edmunds' Orders No. 2 and No. 3 are published in the *Commonwealth Gazette* of 22nd December, 1916, page 3456. Clause 3 of Order No. 2 says:—"The hewing rate for miners and all customary rates paid to them shall be increased 15 per cent. upon the existing rates. . . . . "

Clause 5 of Order No. 3 says:—"In existing contracts the producers and other vendors of coal shall be entitled to add to the selling price stated in such contracts an amount not exceeding 3/-"; and in Clause 2 a similar permission is given to all vendors, wholesale or retail.

There were, at that date, 15,000 coal miners. Their aggregate wages were annually £2,600,000. Therefore, the 15 per cent. increase in wages amounted to about £390,000 per annum.

Over nine million tons of coal are consumed annually in Australia. Assuming that the extra 3/- is paid by the public on seven million tons only, and that the other two million tons are consumed by the mine-owners, or for some other reason do not carry the extra charge, then the

public pays an additional £1,050,000 for its coal as the result of Judge Edmunds' order.

Although the working man with his wife and family pays three-fifths of the cost of a rise in bread, it might be hardly correct to say he pays the same proportion of the rise in the price of coal. Directly or indirectly, however, he pays probably half of it. Assuming that to be his share, the figures work out thus:—

Direct loss of wages of coal miners during the strike (32 days) ..	£225,725
Half the extra price of 3/- per ton on seven million tons of coal used in a year	525,000
Total direct loss suffered by the working class	£750,725

This sum is merely the traceable amount lost. Figures are not obtainable as to the amount lost in wages by the large body of male and female workers who were put temporarily out of employment through the stoppage of coal, nor is it possible to estimate the loss the community suffered indirectly through rises in the prices of other commodities. It would probably be no exaggeration to say that the total loss caused to all classes, directly and indirectly, for the first year, amounted to something in the vicinity of £1,500,000.

No doubt the coal miner gained a passing advantage in the shape of higher wages. He gained a "victory," but other strikes will bring round his own turn to pay. Strikes may obtain for the section which strikes an increase at the expense of the remaining sections of workers and the public, but a sufficient number of such "victories" will leave the general body of workers stranded. The greater the number of strikes, whether successful or not, the worse the plight of the worker. It is different when strikes occur in trades which cannot pass it on. If a serious strike occurred among gold miners it would be impossible

to raise the price of gold, or to increase the output, *i.e.*, lessen cost per unit, and the strike effect pushed to its logical conclusion would merely close up the gold mines, and the evil effects would fall principally on the strikers. There are not many trades so circumstanced that the cost cannot be passed on, and in such trades it will be found that wages are comparatively low and strikes infrequent.

During 1916 the strikes throughout Australia were greater than in any previous year—they numbered 508, and cost every worker a direct loss of wages (averaged over all the workers in the Commonwealth) amounting to 16/3 per head, a total of £967,604. It is impossible to calculate the cost to the community, but it must have amounted to many millions. We have already seen that about three-fifths of the total cost falls on the workers. Three-fifths of the total direct and indirect cost of Australian strikes in 1916 must be a large sum.

The Beginnings of Labour Laws.

In earlier times labour troubles as we know them did not arise. The ancient relationship was that of *owner* and *slave.* Probably the slave was discontented then, but he had not the facility afforded in modern times of voicing his complaints. He might have been knocked on the head if he had "demanded a conference" or "declared a strike."

Gradually enlightened public opinion turned against the injustice of one human being owning the absolute mastery over another. Slavery in all British possessions was abolished in 1833, the Russian serfs were made free men in 1861, and Abraham Lincoln's proclamation of emancipation in America was made on 1st January, 1863, and so the relationship of owner and slave gave place to that of *master* and *servant.* Then the spread of education began to lay the foundations for a further change. In all probability the master and man period was that in which the greatest measure of contentment existed. The masses were not educated, their wants were small, and the masters as a general rule treated their men fairly, and this

is true, notwithstanding the existence of cases of sweating and injustice. A comparatively happy relationship existed between master and servant, probably rare in the period of slavery, and certainly almost unknown to-day.

Shortly following the emancipation of slaves the idea of extending the benefits of education to all classes began to spread and take practical shape, and as the education of the masses extended, a general feeling of unrest came into being all over the world, and manifested itself in different ways in every country. About the year 1895, a process began in various parts of the world of passing laws for the protection of the workers, at first designed to secure their safety while at work, or their proper treatment in various ways, such as seats for girls in shops, the prohibition of the employment of children at night, and so on. As this process developed laws were passed in Australia to secure minimum wages, and officials were set apart to carry out these laws and, incidentally, to prosecute and punish those who disobeyed them. The enforcement of the men's rights by law led to resentment on the part of the masters, and a feeling of enmity gradually displaced the more friendly relationship of earlier times. Privileges were cut off as rights were enforced, and the third phase began—the relationship ceased to be that of master and servant, and became that of *employer* and *employee* as we know it at the present time.

In the period of transition to the status of employee the worker has risen to a much higher plane than he ever dreamed of when he was either as a slave or a servant. He has become educated, he has had his part in the development of the wonders of modern invention and machinery. These modern creations have had their influence in making him an independent thinking being with a mind ambitious and a will of his own.

But with his increase in mentality he has naturally become discontented. He sees himself condemned to life-long labour, with little hope of escape, while others are born to life-long luxury, accompanied by a settled conviction that they are superior beings. He, having learned

to think and compare, can see no justification for the fact that he and his fellows must spend their lives in toil in order that others, no more deserving, may idle their lives away in easy affluence.

This discontent, this unrestful condition brought about mainly by wider knowledge, is the force that has been at work in modern times, taking various directions in different parts of the world, but always aiming at betterment, mostly blindly, often wrong-headedly, but pertinaciously, irresistibly. The movement is in its essence right, and while it already has had some success, eventually must do much more to raise up the worker.

During the transition from slave to servant, the worker's rank as well as his knowledge rose—he acquired a position nearer to that of his master; when he became an employee he rose still higher. The class distinction is infinitely less now, and the betterment in the worker's condition and treatment has advanced step by step with the lessening of the social gulf that separated them.

All those who have had any experience of labour disputes know that class bitterness is one of the greatest difficulties in the way of the peacemaker, and one of the most obstinate blocks in the path of the seeker after improvement. It is permissible to believe that as we still further lessen the social difference, so will the difficulties of solution of labour problems wane.

When Professor Matthew B. Hammond, of Columbia University, Ohio, was in Melbourne, in 1912, studying Wages Boards, he was most impressed by their educative influence. He was surprised to find the equality that existed at the round table conference of the Wages Board, and how each side became more tolerant as it became better informed as to the difficulties and desires of the other. The Boards have done good work in this connexion, and, owing to this influence and others, the class distinction in Australia is probably less than in any other country except, perhaps, America, but there is still overmuch of it; there still remains much meaningless distinction which is unnecessary in a community like ours. We are only

very slowly learning to discard artificial differences in rank, and beginning dimly to understand that character, qualities, and education count higher than birth or money.

If the employee can be put into a position analogous to that of a *partner*, where his social rank will be regarded as almost equal to that of his employer, and where it is quite as much to his interest as to his employer's that the business should be successful—in other words, *if the interests, aims, and desires of the two can be made identical* —there will be less trouble from strikes and labour disputes.

At no time in history has there been a more rapid levelling going on than during the present great war. The Russian autocracy has fallen, and class distinctions in England have crumbled; but we are further away from the conflict in Australia, and the same relative progress has not been made here. We have little autocracies among us still. There are ladies who would learn much from their servants if they would put themselves more on an equality with them and treat them with greater consideration. Women who complain of the scarcity and quality of domestic employees forget, or do not know, that girls in factories have fixed hours of work, and are addressed as Miss instead of by their Christian names. There are employers who might have closer touch with their employees to the great moral and material benefit of each; such employers would find that, by treating those whom they had hitherto regarded as their inferiors more on terms of equality, they would improve the lives and the efficiency of the men, and make a profit out of the resultant industrial peace and larger output into the bargain, and this is proved by the fact that there are also employers in Australia who have proved the practicability of this truth, to the great benefit of both. Employers could be named who have so ordered their business that they and their employees are on terms of the greatest friendship and confidence—each working with, and not against, the other, with the result that the employers are more prosperous financially, while the employees, as well as being contented,

are better paid than other similar workers. Such employers are pioneers, and have made themselves entitled to the grateful thanks of the whole community. They, like pioneers in other directions, are few in number.

The body politic has failed to realize the obvious fact that an educated man has more requirements, more possibilities, more ambitions, and greater rights to consideration than a man who knows nothing. The man without knowledge needs little, and is satisfied with little, as the forerunner of the present-day employee was. Yet the community has sent the school master abroad and made the labourer a person of moderate education without giving him the consideration and social rank his education entitles him to. The body politic is responsible for all that the extension of education involves, and must realize that it cannot escape the responsibility of adjusting the disturbed social relations caused by its act.

Having begun we cannot turn back even if we would, and history shows clearly—if we read its lessons aright—that it is to the interest of the community that we educate still further our worker morally, physically, and technically, and that as his cultivation advances in the scale so must his social position climb. We must help him to climb, and we must realize that the higher he climbs the better for the general well-being of the whole community.

In recent years America has started movements to secure "the right of every child born to be well born," *i.e.*, born with a constitution physically and morally healthy, so that a fair chance in life may be the child's portion at its birth. To go a step further may be Utopian, it may be an attempt to look too far; but if it can ever be brought about by any manner of means that every boy and every girl shall have an equal start in life, not only as to constitution, but also as to education and opportunity, then character and capacity would be the only brand of aristocracy, the best and cleverest would come to the top by virtue of their own qualities, the sense of injustice and inequality which is at the bottom of all industrial unrest would be a thing of the past, and the labour millennium would indeed have arrived.

How Can the Worker be Made a Partner?

By adapting and incorporating in our labour laws some form or forms of profit-sharing, co-operation, and, perhaps, nationalization of certain manufactures, according to the requirements of different trades, not necessarily confining ourselves to any one system.

Profit-Sharing and Co-operation.

The space available will only allow a brief examination of the profit-sharing and co-partnership experiments which have been tried in different parts of the world. Such experiments have been tried in thousands in every advanced country, and these thousands of experiments which have been tried more particularly in France, America, and Great Britain, have been as various in their methods as they are great in number. In most cases the experiments were partly co-operative and partly profit-sharing schemes. The principles of co-operation and profit-sharing are so close to one another, so intertwined in their methods and objects, that attempts to clearly define co-operation as apart from profit-sharing have not been very successful. It will perhaps be better to give here an example of each, rather than endeavour to express by words in a definition the difference between the two.

As an example of pure profit-sharing, then, the experiment of R. A. Bartley, wholesale grocer, of Toledo, Ohio, may be cited. He set up his profit-sharing scheme in 1904. He takes out of the net profits, that is to say, the profits remaining over after paying wages and outgoings of all kinds, a sum equal to the legal rate of interest, say, 12 per cent. All profits over and above that are divided equally among all employees who have completed one year's service. The lowest salaried man gets the same amount for his share as the highest. In 1914 each share amounted to £125. In 1908, owing to losses by fire, no profits were divided, the employees having to be content with their ordinary wages.

As an example of pure co-operation or co-partnership, the well-known experiment of the Rochdale pioneers stands out. In that case 27 poor weavers, in order to obtain some of their necessaries at less than the ordinary retail cost, joined together and bought a chest of tea, and divided it among themselves at wholesale cost price. They found that, by buying the tea wholesale, they saved considerably. The experiment was continued with other goods, and gradually but surely it grew to be a wealthy corporation, with an enormous turnover, and an immense number of co-operators.

A close study of books on profit-sharing fails to reveal anything approaching a common principle. Some of the schemes should be described as co-partnership, others as labour co-operation, while a comparatively small number are profit-sharing schemes. Although it would be impossible to find a common principle running through them, or anything approaching a common principle, there is one feature that is common to almost all of them. They have been set up by the owners of the business on a plan to suit the business, and without any regulation by law. It is true that in 1879, and again in 1882, 1888, and 1892, attempts were made in France to pass laws to regulate co-operation and profit-sharing, but these attempts did not succeed. We, therefore, find that nowhere has any such experiment had the force or regulation of law. We may draw a parallel between that fact and the story of the legal minimum wage. In the dark ages of the past, when men could get slaves to do their work, no wages at all were paid. Later on, when slavery was abolished, but before the time when any wage-fixing law had arrived, the remuneration of the worker was dependent largely upon the supply of labour. Employers in times when labour was superabundant took advantage of that fact and paid very low wages. In Australia, which is the only country which has passed minimum wage laws, those laws had their being owing to the fact that sweating was going on. If it had not been that certain employers or sections of employers unfairly treated their employees in this way,

it is fair to assume that there never would have been any wage-fixing law. The necessity for such a law would not have arisen. While employers could pay little or much, as they chose, the conditions in the labour market were unsatisfactory. In the same way, while co-operative and profit-sharing experiments are unregulated by law, we cannot say that the principle has ever had a fair test. The experiments tried have been made without any system and without any check, in varying circumstances, on varying plans, and without any traceable similarity sufficient to enable any clear comparison to be made. It may well be that, if it ever comes to pass that we shall regulate profit-sharing and co-operation by law so as to prevent abuses of schemes in operation, and so as to insure that necessary precautions will be taken for the proper safeguarding both of the employer and the employee, this method of regulating and rewarding the worker will show great improvement in practice, will be regarded more favorably, and will prove the solution of our labour problems as we know them to-day. It may be that in a system of legalized and legally-enforced profit-sharing for some trades, co-operation in others, with perhaps the nationalization of certain suitable manufactures, our greatest hope of an improvement lies, and our best chance of putting the worker in a position that will at once help him upwards, and assist the whole community towards greater national efficiency. Whether the legal regulation of the principle of co-operation and profit-sharing will fulfil hopes in this direction or not, at least it must be conceded that the only way to eliminate abuses, dangers, and suspicions, and to give the system a full and fair trial on the most advantageous basis, is to give it legal sanction and force.

Among the most informative books on the subject are—

Profit-sharing by American Employers (National Civic Federation).

1912 and 1914 British Board of Trade Reports on Profit-sharing.

Gilman's *Profit-sharing between Employer and Employee.*
Co-partnership and Profit-sharing, 28 *Years of Co-partnership at Guise* (A. Williams).
Labour Co-partnership (H. D. Lloyd).
Co-partnership in Industry (Fay).
Industrial Peace (F. G. Williams).

The Alternatives of Profit-Sharing.

Quoting from the first-named, the first mention of any application of the principle is made in the writings of a Frenchman named Turgot, in 1775. There seems to have been a break in information obtainable until the year 1820, when co-operation and profit-sharing began to occupy more attention. From that time onwards our information is much more complete. The Report of the Board of Trade, issued in 1912, shows that in the year 1909 there were in Great Britain 1,580 societies, co-operative or profit-sharing, in operation in that country. They had a capital of £37,500,000, an annual turnover of £128,000,000, and a membership of 2,512,048. There were probably at that time an equal number of such societies in France, and possibly also in America, a lesser number in Holland, Germany, Denmark, and other European countries, with a few score in Canada, South Africa, and Australia. Perhaps the total number of such schemes at the outbreak of the war in all parts of the world may be very roughly estimated or guessed at as 10,000. It is difficult to obtain figures to enable anything more than a rough estimate of the number to be made, still less as to the capital, turnover, or membership. It must be taken, therefore, that this estimate may not be very exact. It is probably an under estimate.

The following is taken principally from *Profit-sharing by American Employers.*

The character of the different plans of co-operation not only varied between different employers in the same country, but varied a good deal also with different nation-

alities. Each country followed largely its own line of development, and accordingly a good many national divergencies in the nature of the schemes are to be noted. France is the country which can claim to have initiated the idea. Probably the oldest scheme of profit-sharing in existence is that of the National Fire Insurance Company of Paris, which was instituted in the year 1820, about 45 years earlier than the oldest English scheme known to be in operation. There are perhaps more schemes in operation in France than in any other country, although it is questionable whether America has not of recent years outstripped her. There are vigorous profit-sharing schemes in France, which have been in existence for more than half a century, and the scheme that may be regarded as the father of all profit-sharing and co-operative ventures had its origin in Paris, where it is still in existence and is known as the Maison Leclaire. Edmé Jean Leclaire, who has been called the father of profit-sharing, was born in 1801, the son of a poor village shoe-maker. At the age of seventeen he was in Paris penniless and alone, where he became a painter's apprentice and then a decorator, and at the age af 26 he set up a business for himself as a house painter. In 1838 he established a mutual aid society for his employees. Four years later, in 1842, he set up his profit-sharing business, which has remained in existence up to the present time. He had then in his employment 300 men on day wages. It was his idea that, by generating greater zeal and enthusiasm among his workmen and by preventing waste, he could, without asking them to work any harder, put his workmen and his business in a better financial position. He did this by agreeing to divide a fixed percentage of the profits. His plan was as follows:—After paying 5 per cent. interest on the capital and small sums as wages to the two managing partners, the remaining profit was divided into four parts, one of which went to the managing partners, one to the mutual aid society of the firm, and two to the employees as dividends on their wages exclusive of piece-work and overtime, on which no dividend is paid. The mutual aid society

was a registered body and a limited partner in the firm, the liability of the two managing partners being unlimited and the control resting entirely in their hands. The benefits of the mutual aid society and of profit-sharing generally were enjoyed in the main by all the employees of the business, but certain advantages were confined to a limited number of permanent employees. Leclaire died in 1872, leaving a fortune estimated at over 1,200,000 francs. He attributed his success to his profit-sharing scheme, resulting in the co-operation of his workmen, without which he maintained it would have been impossible for him to establish so large a business or accumulate his fortune. The house of Leclaire was in 1916 known as Brugniot, Cros, and Company. It employed more than 1,200 persons, including a salaried staff of 60. About 140 of the employees are set apart by reason of their experience and character in a special classification called the *noyau* or nucleus, leaving about 1,000 employees in the unpreferred class. The profits are now divided among the employees in proportion to their wages and salaries. The annual profits run as high as £25,000 per annum. Of this sum, the wage and salary workers receive one-half, the mutual provident and benefit societies about 35 per cent., and the active partners about 15 per cent. In a good year the bonus to the workers forms an addition of 20 per cent. to their earnings. A life pension is granted to a member at the age of 50, if he has completed 20 years of service. Widows of members and orphans draw a half pension. Workmen disabled while in the employ of the company are entitled to a pension. Other forms of benefits, including insurance, are paid, and a large fund has been established as a reserve. In addition to that, there is much educational work done in increasing the employees' skill. The company does the finest work, in house painting and decoration, not only in Paris, but throughout France and in other countries. The story of the moral effect of Leclaire's theories put into practice is even more interesting than the statement of the financial gains of the workmen. Leclaire himself stated that, in the early years of

his experience, it was commonly necessary for him, when having two men to perform a job, to send a third man to supervise their work and keep them in order. Under his profit-sharing scheme this was unnecessary. It took some years of experience before the scheme had the confidence of the workmen. It was only after several years' payments had been made that anything like general confidence was established. After that, everything went well, and the Maison Leclaire is commonly spoken of as a model which in many respects may be fruitfully studied by employers entertaining intentions of beginning profit-sharing.

Another notable instance in Paris is that of the Familistère de Guise. It was founded in 1876 by Godin, who was a manufacturer of heating apparatus, hardware, and similar products. It gradually grew, and as time went on, new co-operative and even communistic features were from time to time added. These included the care of young children in groups by competent nurses, the various grades of schools with vocational training, a community theatre, co-operative supply stores on the Rochdale system, and preparation for the higher education. The homes of a large proportion of the workmen and their families were in a palace designed with due regard to comfort, cleanliness, and general utility. Of recent years the number of employees has been about 2,300. The great works of the company lay beside a little stream called the Cise, not far from its source, to the north-east of Paris. When Godin died in 1888 he bequeathed to the company £120,000. The capital has recently been £240,000, the annual business reaching £320,000, and the total assets £460,000. The division of the profits is according to a complicated system worked up in the course of years through long-continued discussion. The men regularly employed by the company can look forward to a life with no exhausting overwork, no deprivation of necessaries, and no fear of pauperism. Pensions are granted to the sick and needy, widows and orphans are supported, and other welfare schemes serve to render the men and their families contented. A library,

musical and athletic societies were long ago established. It is sad to record that the entire works, the villages and structures of all kinds connected with the institution have been destroyed in the present great war. Other notable French schemes are those of Laroche-Joubert, Lacroix and Company, the Paris and Orleans Railway Company, and the Bon Marché.

In Great Britain the class of business in which profit-sharing and co-operation have chiefly flourished is that of gas companies, and about half the gas produced by gas companies in England is produced under profit-sharing conditions. Curiously enough, there are only two instances in France of profit-sharing gas companies. While in England the gas companies show the greatest application of profit-sharing, in France the system has been extended most widely to insurance companies and banks, a group which had recently only one profit-sharing representative in the United Kingdom. Mines and quarries, railways and tramways, and metal, engineering, and shipbuilding firms are largely represented in France, while on the other hand the clothing trades, the food and tobacco trades, and the chemical trades, including soap manufacture, are more largely represented in Great Britain.

In the United Kingdom a very large number of schemes still provide for the payment of the bonus simply in cash, though there are others, particularly those of the gas companies, in which the plan is to give work-people facility for the purchase of shares. While the plan of paying in cash obtains very largely in England, it is almost unknown in France, where the system is more often that of encouraging employees to purchase shares in the employer's undertaking. The French idea is to make the employee a partner by reason of the interest he has in the business. He is given shares in the majority of undertakings, the value of these shares is capitalized, and he is secured against the time when he will no longer be able to continue to work, while ample provision is made in case of his death for his widow and children.

An examination of the profit-sharing and co-operative

schemes throughout the world shows that the plan of giving workmen shares in the company has been more largely followed than any other. In English-speaking countries the workmen do not like to have their benefits so long deferred. They prefer to see the money coming in at as frequent intervals as possible. If a workman has to wait a long time for his benefit, the value of it is largely discounted, or, to put it in other words, a future benefit is not valued as a rule nearly so highly as an immediate one. It is easily understood that the average human being—and especially the working man—likes to see his benefit come quickly. Speaking generally, he prefers to see quick returns. He likes to have the money in hand as soon as possible after the work is finished.

The fact that workmen have to wait for benefits, has been the cause of the failure of a great many excellent co-operative schemes. The employers who devised the scheme desired to make their workmen permanent sharers in the business, but the workmen themselves were impatient and desired immediate cash payments, with the result in a great many otherwise excellent schemes that they did not last.

Comparing other countries, it will be found that Germany has not been by any means successful in its experiments in this direction. Very few co-operative or profit-sharing schemes are to be found there. The profit-sharing undertakings in Holland are mostly very small, the last publications only giving two instances of large firms following the system, namely, the Dutch Yeast and Spirit Factory at Delft, with 170 work-people; and the Dutch Engine and Railway Material Works at Amsterdam, with 2,000. An interesting feature, however, about Dutch experiments is that many very small firms are practising co-operation. The Dutch examples in this connexion are very valuable as showing that the principles are equally as applicable to small co-partnerships as to large concerns. In the Schiedam Basket Manufactory Limited, there were only nineteen work-people in 1913. In another case the customers participated in the profits. In Switzerland

there appear to be less than a dozen such schemes in operation. In the United States a great increase has been made of recent years, and some very large corporations have adopted co-operation in the sense that shares are given and not money. The dominant type in that country is the one where shares are issued to employees on specially advantageous terms. The granting of shares is usually accompanied by the requirement that the employee shall remain in the firm's service, and in a great many cases when the worker leaves the employ, he forfeits some or all of the interest he has accumulated. Profit-sharing schemes are found in Canada only to a small extent. In South Africa, New Zealand, and Australia the system has not obtained any great foothold.

The subject is so vast and the number of experiments and their variety so great that one must become a student and spend much time and labour before anything like a grip of the details can be obtained. It is not possible to classify them, nor is it possible to find any common principle that can be pointed to as running through different groups. There are very many interesting and large experiments in this connexion worth studying. Sir Christopher Furniss's scheme for co-partnership shipbuilding, Lever Brothers, soap manufacturers of Port Sunlight, R. A. Barclay, wholesale grocer, Ohio, U.S.A., Eastman Kodak Company, the Studebaker Motor Car Manufacturers' Corporation, the Anchor Post Ironworkers, of Garwood, N.J., and the Ford Motor Company—although the last-named is more correctly described as a high wage proposition than as a co-operative one.

The schemes may be broadly divided into two classes—

1. Those put up for humanitarian reasons, whose principal object is to help the worker; and
2. Those put up for business purposes, whose principal object is to increase the income of the employer.

These latter constitute the vast majority.

One great defect is common to all—almost without exception—they can be altered at the will of the employer. It is found that when the originator of a good scheme dies or sells his business the benefits of the workmen very frequently are lost, and the venture ceases to be a profit-sharing or co-operative business.

If profit-sharing were enforced by law all this would be changed, and the objections that the workers have in most cases had to such experiments would no longer have any reasonable existence. Workers have always been suspicious as to the schemes of co-operation set up by employers. With their rights safeguarded by law they would know exactly their position, and their grounds of suspicion would be removed.

A full and fair study of the world's experiments brings out in the boldest relief this fact—*no co-operative profit-sharing scheme in which the interests of employer and employee are fairly balanced has ever been a failure.* The Maison Leclaire, which at first was regarded with suspicion by his fellow-workers, was set up by a practical workman, who was both a philanthropist and a keen business man. It has had a highly successful career, and is still going, after a life of 75 years. Its long life and success is undoubtedly due to the fact that the scheme treated all interests fairly. The same may be said of all long-lived successful schemes of co-operative profit-sharing, and the converse is equally true as to all schemes which have failed. By far the greatest majority of such experiments do fail. Their average life is probably less than three years, and their disappearance is due in very many cases to alterations made in his own interest by the employer. It would seem impossible to give the workers any dominant power in management. The effect of the power of management being solely, while such schemes are unregulated by law, in the hands of the employer, is to put the temptation in his way of making alterations to improve his position at the expense of his employees. Herein lies the secret of so many failures. If the conditions of co-operative profit-

sharing were regulated by law, so that the rights both of the workers and of the employers would be reasonably safeguarded, the cause of the extinction of so many of these schemes would be removed, and the secret of the long and successful life which has been enjoyed by the Maison Leclaire, the Familistère de Guise, some of the British gas companies, and other schemes would be imparted to the legally-regulated profit-sharing which is here proposed. Whether that proposition meets with agreement or not, it is clear that good profit-sharing schemes do not fail, bad ones do, that the vast majority of such schemes are conceived without fair consideration being given to all interests, and more with the idea of benefiting one particular interest, and that nowhere in the world at any time has an equitably arranged co-operative profit-sharing scheme been tried which has not been a success.

What are the alternatives to profit-sharing? If we assume that the community cannot go on much longer as at present, seeing that wages have in fifteen years risen 39·6 per cent., and presumably cannot go on rising indefinitely, and that cost of living has in the same period increased 50·7 per cent., and must, if the working man is to survive, by some means be held down, it is clear that we must find some system of regulating the relations of employer and employee different to our present method. If our experiments in wage-fixing legislation had been more successful in carrying out the intention of helping the worker, we might say the time had not yet come for a change. But in face of the more rapid rise in cost of living than in wages, we cannot claim that our legislation has had the effect intended by its framers. We cannot, in face of the obvious fact that the workers of Australia are gradually slipping down into a position of greater disadvantage, close our eyes to the fact that we are nearing the danger point, and to the necessity for looking for a remedy.

If some kind of co-operation, whether in the form of profit-sharing as outlined herein, or in some other form, is not adopted, what alternative is there There would appear little hope in price-fixing. Our war-time experiments in that direction would hardly do in times of peace. To fix prices for all commodities would seem too complicated and too uncertain in its effects to be within the range of practical possibility, and should therefore be rejected. Nationalization of manufacture and of certain other industries, that is to say, the control of such manufacture and industries by the State is making headway in the minds of many people. We are not without experience of nationalization in Australia. Our railways have always been a national undertaking, owned by the State, and run by the State, so has our water supply. The business of the Post-office in carrying mail matter, delivering letters and telegrams, and controlling telephones, has always been conducted on State socialistic principles, and it can hardly be denied that such work as that of the Railways and the Post-office is as much in the nature of business as almost any other activity that could be named. We are liable to forget that we are already to a very large extent socialists in several directions. Our trams are largely national, as are our coal mines and many other public utilities, such as roads and bridges, public gardens, the sewerage of towns, the electric supply, and other things. Of recent years our experiments have taken new channels. In certain States there are State butchers' shops, State bakeries, State timber mills, State fish shops, and we have a Commonwealth line of steamers which proposes to enter into the carrying trade, a Commonwealth woollen factory and Commonwealth shipbuilding yards. If many of these experiments have been failures, that fact by itself is no proof that such activities cannot be properly run by the State. Those that have been in existence for a long time, such as the Railways and the Post office, can hardly be regarded as failures, nor could the education of children by the State, and it would be difficult to find any considerable number of persons at this time who would be willing

that the State should give up such nationalized industries as that of the Railways and the Post-office. Quite apart from the question of whether such experiments as State butchers' shops and State fish shops are within the proper ambit of State enterprise, it must be admitted that the failure of many of such places is quite as much a proof of bad management as of the impossibility of the State properly managing such concerns, and it must be admitted that, if these experiments were continued through a number of years, it is possible that they would find for themselves their proper level and become a success as time went on.

It is not intended here to advocate their extension, nor indeed to express any opinion as to whether the State should or should not indulge in such experiments. It may, however, be taken as clear that the States have for many years successfully conducted nationalized activities, and that the modern tendency is for the State more and more to take over certain services or, to put it in other words, the nationalization of industry appears to be gaining in probability rather than otherwise in recent years.

Nationalization of industry and price-fixing appear to be the only alternatives to a system of co-operation or profit-sharing as outlined herein.

In Australia we have tried one of the boldest and most remarkable experiments in legislation known to history in the enactments for the fixing and enforcement by law of a minimum time wage for workers. Experience has shown such serious defects in this legislation, and such dangerous possible consequences, that it is permissible to believe that the breaking point is approaching. It seems impossible to go on as we are doing indefinitely. Our experimental laws in this connexion are regarded in many quarters as having nearly run their course. If they must go, we should be ready with something to take their place. Is there anything to be found better than a system of profit-sharing?

Profit-Sharing and Dividend Limiting.

The scheme which follows is one designed to cure the defects which our experience has disclosed. It will not be applicable to all employment, but should be capable of being made operative as to most trading and manufacturing concerns. Just as labour laws were at first made to apply in factories and afterwards extended to other employments, the Board of Trade might apply this scheme gradually beginning with manufacturing concerns.

SCHEME.

The Minimum Wage.

In the scheme here submitted the employer is referred to as the "Patron" and the employee as the "Sharer."

A Board of Trade to be established and invested with power to first divide all occupations into groups, as for example:—

Group A.—Skilled trades requiring a period of apprenticeship or training of four years or over.

Group B.—Skilled trades requiring less skill than those in Group A.

Group C.—Unskilled trades which require rather physical strength than training.

Group D.—Unskilled trades which make less call for special qualifications.

Group E.—All others.

Then to fix minimum wages-rates and piecework prices for each group, with not more than five different minima in a group—the lowest minimum fixed to be a wage that will enable a man, his wife, and three children the barest living, the other minima to be higher in proportion to the skill and qualities required, but in all cases designed so as not to be anything more than an assured support to be supplemented by the profits the worker helps to earn.

These low minima to be applicable only to those trades which are brought under this scheme.

The Capital Basis of Distribution.

The Board to have the task of deciding the method of calculating the amount to be regarded as capital in dividing profits, and laying down rules for fixing the capital in each kind of business.

In such a business as that of a bank, a building society, or an insurance company, the Board of Trade would probably decide that the actual capital invested should be the basis of profit distribution, but in the case of the business of a shopkeeper or a manufacturer, it could, in order to secure a fair proportion of profit to the owner, decide that the actual money invested be doubled, trebled, or otherwise multiplied, to arrive at the *capital* basis of distribution, and it would be necessary to distinguish between different kinds of shopkeepers and manufacturers, and to fix the capital according to the exigencies of each trade. It will be seen that the word capital is here given a somewhat nominal meaning for the purposes of this plan. If the actual money invested by, say, a grocer were taken as the capital for the basis of distribution, he would get but a trifling sum as his share. He turns over his original capital many times during a year, and therefore is in a different position to, say, a bank, and is entitled to a different estimate of capital. The task would be an extensive one, and the Board would need power to revise its findings, in order that knowledge gained by experience might be put to use.

Though the method of calculating the capital would vary, the plan of distribution would be the same in all cases.

The Distribution.

Every person or body of persons (under the profit-sharing law) carrying on any trade, manufacture, or enterprise in which one or more persons are employed to make annually, quarterly or monthly (as decided by the Board of Trade) an apportionment of the net profits of the venture, *i.e.*, the sum remaining over after paying wages, expenses, rent, depreciation, insurance, and other fixed

charges into three parts (provided the profits are ample enough to allow of this being done) and divided, as follows:—

The first part, or subtrahend, is paid in full to the patron. It consists of a sum equal to 10 per cent. on the capital. This is always a first charge on profits. It may be increased only in two cases, viz.:—

(*a*) If in any year or years since the venture started the profits were less than 10 per cent., or if any losses were made, the losses and 10 per cent. on the capital for each such year become part of the subtrahend, so that capital shall be secured 10 per cent. return over all years of trading.

(*b*) If in any year the price of the articles made, or the work done, is reduced as compared with the price charged by the same patron during the last preceding year, the subtrahend for the year during which the prices are so reduced may be increased cent. for cent. of the reduction. Provided that the reduction be a general reduction over all production or work and be operative for the whole year to legalize the increase.

The second part, or partition, is divided equally between the patron and the sharers. The sharers receive *pro rata* according to wages earned. It consists (like the subtrahend) of a sum equal to 10 per cent. on the capital. It cannot in any case be increased, but will be less where the net profit is not sufficient to cover it.

The third part, or residue, is paid in full *pro rata* to the sharers. It consists of the whole balance of net profits (if any) remaining after the deduction of the *subtrahend* and *partition.* In other words, all the net profit over 20 per cent. on capital goes to the sharers.

The patron would thus be secured the first 10 per cent. of net earnings, and his total profit would be limited to 15 per cent. If in any year the profit were less than

10 per cent., future earnings would be debited with the deficit so as to make up the capital earnings over all years to 10 per cent. for the time the business has been under the scheme. The sharer would have secured his minimum living wage, and would have in addition his share of the partition and residue which he and his fellows helped to earn. If the net profits did not exceed 10 per cent., he would have to be content with his bare living wage, but in every penny over 10 per cent. he would have a proprietary interest. In actual practice the sharers, or at least most of the sharers, would have higher wages than the minimum fixed by the Board of Trade. A large proportion of the workers under the existing law are paid more than the legal minimum. It would be the same under this scheme. The patron would find it to his advantage to offer higher fixed wages as he does at present to attract more efficient sharers, and there is nothing in this scheme to prevent that. The sharer would share according to the amount of his wages, and the efficient man would thus get a better reward while the inefficient would only be able to command the bare minimum, plus his proportion of profits. The sharer would be encouraged to put his energy and ingenuity into the business, because it would be partly *his* business—it would pay him to see that every sharer in the concern was working fairly, and that all the interests of the business were safeguarded. He would find his benefits identified with those of his patron instead of opposed.

The effort of the sharers to increase the prosperity of the business must increase production, or in other words lower the cost per unit—thus would cost of living come down, and the sharer's minimum wage increase in purchasing power, but the limitation of the patron's profit to 15 per cent. should have a further and even greater effect in this direction.

Take as an example of what would happen in the case of a manufacturer whose capital is fixed by the Board of Trade at £5,000. He is making, say, 50 per cent. profit, or a net sum of £2,500. Of this he could only pocket

£750, while he has to pay his sharers (in addition to their minimum wage) £1,750.

Let us suppose that in order to encourage his sharers he increases their wages all round, and in order to increase his trade and make the articles he produces more popular, he reduces their price, so that his net profit is in these ways reduced to 25 per cent.—he still pockets the same sum as he did before, £750 per annum, but his sharers only divide £500. The alteration has not cost him anything. He has done it at the expense of the sharers.

He can go still further and reduce his net profit till it is only 20 per cent. on capital without affecting his own share. In that case he would still take £750, but the sharers would only divide £250.

As soon as the profits fall below 20 per cent. his share begins to be affected.

Take another example. A shopkeeper has his capital assessed by the Board of Trade at £3,000. His net annual profit amounts to £1,000, or 33 1-3 per cent. The *subtrahend* (which he takes for himself) amounts to £300. The *partition* (which is divided equally between himself and the sharers) amounts also to £300, and the *residue*, which is all divided among the sharers, amounts to £400. The patron therefore takes £450, while the sharers divide £550.

The question is, what will this state of things cause the patron to do?

He can apply to the Board of Trade to revise the estimate of his capital and assess it at a higher sum. If that fails there is only one way open to get a larger income from his business—he must enlarge it and put more capital in. He can call public attention to his shop by advertisements of "great sacrifices," "summer sales," or in any other way usually adopted by energetic business men to attract custom, and he can cut down the price of his commodities by 13½ per cent. to further induce custom, without lessening his own share in the profits he is earning. When business is booming his opportunity has come for putting more capital into his venture and thus increasing his income. Let us suppose he puts in a sum of money

sufficient to make his Board of Trade capital £6,000, that is to say, double as much as before. The net result is, the patron doubles his income and the public gets his goods 13½ per cent. cheaper. The sharers come with least advantage through this deal, but at least they would have lower cost of living in one line of necessaries. If the same process went on in other businesses, manufacturers' prices all round would be lower and cost of living all round would be less. A revolution would have been accomplished in this way. Strikes passing it on and higher wages are at the present moment causing cost of living to mount higher and higher, till the humbler classes are threatened with worse troubles than obtained before the advent of labour laws. If the scheme here outlined acts as is suggested the process will be reversed, gradually cost of living will come down, and the poor people of the community will get relief in the shape of better value for their money.

There are many businesses making 10 per cent. or less. Such a business would not be injured by this scheme, because the patron would keep all the net profit he made, but he would be helped to the extent that it induced the sharers to put forth their best efforts to make the profit greater.

There are on the other hand many concerns making huge profits. Their income would be cut down to 15 per cent., but they would be encouraged, if not forced, to lower cost of living by lessening the cost of their commodities. These high-profit people, finding their income reduced to 15 per cent. on capital, would have only one way open to them to increase their income—they must increase the amount the Board of Trade allows them to call capital. That can most easily be done by increasing their business. If they reduce the price of their product they will increase the demand for it, and their business should increase. It has already been shown that the price of the product in a highly prosperous venture can be lowered at the expense of the sharers, and so it will come about that living cost will be less.

In the case of a bank, the result would be very much the same. Though no article is produced which could be made cheaper, the interest on money could be lowered to the general benefit of the community, encouragement of enterprise, and increase of employment.

Balance-Sheets.

The last part of this scheme is the publication of a balance-sheet by every business brought under the profit-sharing law. The Board of Trade would have to prescribe the exact forms of balance-sheets, and what items must be included, and the classification of every sum of money received or expended, having due regard to the rights of traders as to preserving the secrecy of trade formulas, trading methods, and all other matters connected with their businesses which should not be made public.

It should be possible to devise a clear form of balance-sheet which would show clearly profits and losses without disclosing trade secrets. The statement should be open to all who care to read it, especially the sharers, so that they should know that the profit division has been honest.

The publication of the profits or losses of each business should have an influence on living cost in this way.

The business that is making a small profit has nothing to hide, but will be benefited. Publicity should tend to prevent further competition with possible loss of capital and certain lessening of already small profits, while the publication of the balance-sheet of the concern which is making an unduly large profit will induce the investment of money and energy in the trade, and increase competition, until the public gets fairer treatment through the cheapening of an article which with secret methods would have remained at an unduly high price.

Without doubt the objection to a public balance-sheet will be loud in some quarters. The greater the monopoly the greater will be the opposition to public analysis, and the greater the need for the protection of the public from exploitation.

The Percentages Suggested.

It is hardly necessary to add that percentages named are not arbitrary. It is thought that 10 per cent., which is secured by this scheme to capital for all years, whether fat or lean, before any distribution to the sharers begins, is a fair proportion, having regard to the necessity to avoid any discouragement of enterprise; and the limitation of capital's maximum earning to 15 per cent. has been fixed upon as representing the extreme beyond which capital should not—in the interests and for the proper safeguarding of the rights of the community—be allowed to go. The Money Lenders' Act of Victoria, which was designed to stop usury, prevents the charging of interest over 12 per cent. in certain cases, and allows any excess to be recovered by action at law from the lender. If this enactment be taken as a guide the percentages suggested may be regarded as sufficient. If, however, it is desired to so arrange the scheme as to give more encouragement to the worker and provide greater inducement both to him and to the patron to put forth maximum effort, the following percentages are suggested:—

The *subtrahend* to be 7 per cent.
The *partition* to consist of the next 26 per cent.
The *residue* to consist of all profits over 33 per cent.

That proportion would have the effect of making the sharers begin to participate as soon as 7 per cent. profit was exceeded and of limiting the patron's profit to 20 per cent.

The percentages may be altered in any way thought best without affecting the essence of the scheme, always provided that capital gets a sufficient percentage to secure that enterprise be not discouraged and capital driven out of the country. In devising the scheme it was considered that a net 15 per cent. would not be excessive, and yet would be sufficiently liberal to make it worth while to invest capital in new industries. If that percentage is too great or too small, it should be discarded and the right proportion adopted instead.

Applying the Scheme.

The Board should bring profit-sharing into operation gradually, and decide what ventures are to come under, leaving out all employment for which the scheme is unsuitable, as, for instance, employees in charitable institutions, employees of professional men, employees of municipal councils, and persons in any employment not a trading concern. For such persons, the protection they now enjoy —whatever it amounts to—need not be disturbed.

A Final Word.

The greatest value we have in Australia is our men and women. To paraphrase Redfield in "The New Industrial Day":—

"Wealth, efficiency, material resources are nothing compared with the value of human life and welfare. If the Australian men and women are our most valuable possessions, then the getting of material wealth at the cost of injury to men and women is an economic mistake, a national injury as well as an ethical wrong. The price is too high to be paid. The nation cannot afford to waste its best for anything less valuable, yet we are wasting our power most extravagantly by allowing—without any real effort at betterment—the present wretched condition of affairs to continue."

Never was known before such a state of unrest, distrust, hatred, class bitterness, opposition and strikes. All classes are filled with distrust and are more prone to condemn than to give others credit for honest endeavour. What is the money cost of all this to our fair Australia? Who can calculate it?

We are very much in the condition of a house divided against itself, which the Bible tells us cannot stand. The workman and his employer, speaking generally, are working against one another, not, as they should be, pulling together. The workman, moreover, is not as a rule happy in his work. Let there be no mistake. The workman, whatever his work be, whether he works with his brain

or his hands, cannot do good work unless he is happy in the work at which he is occupied. The worst thing we can do for ourselves is to quarrel with our bread and butter. The student of industrial matters knows that discontent is the greatest of all foes to national efficiency, and that only the workman who takes pride and pleasure in his work is effective. Let us lose our self-respect, let us become discontented, let us lose pride in the work that we turn out, and the quality immediately deteriorates. The prosperity of the community and national efficiency are most intimately connected with the happiness of the workman and his pride in the work of his hands or brain. Is it not reasonable to suppose that, if we make him a partner, a sharer in the wealth that his labour and skill assist to produce, much of his discontent and unrest will thereby pass away? Profit-sharing in one case, co-operation in another, labour co-partnership, according to the nature of the business and the work to be done, will make him a partner, will give him a direct interest in the success of his work, and in that way will go far to remove the discontent that he too often feels in his work to-day.

Whatever the paths we decide to tread, the main objective to be arrived at in any change in our labour laws is to do away with the present enmity between employer and employee. The interests of the two are in reality the same—the prosperty of one is bound up with the prosperity of the other.

Sir George Livesey, in addressing the shareholders in a Gas Company in London, of which he was Chairman, recently said:—

"The wages system of payment for time does not act as a stimulant to a man to put his heart into his work, neither do piecework and other similar devices, although they are an inducement to work harder. We want workmen who will take an employer's interest in the business by which we live, to work with body and brain and put their hearts into it. Partnership and nothing else will do this."

REPORT

OF THE

Chief Inspector of Factories,

MELBOURNE,

ON

ANTI-STRIKE LEGISLATION

IN OPERATION

Throughout the Australasian States;

AND

RECOMMENDATIONS REGARDING SUCH LEGISLATION FOR VICTORIA.

SYNOPSIS.

Factories Office,
Spring-street,
Melbourne, 1st July, 1915.

SIR,

I have the honour to submit this my Report on anti-strike legislation, and my recommendations as to the best means of lessening lock-outs and strikes in Victoria.

For convenience of reference, I have put the recommendations first, leaving for the Appendices a good deal of explanatory matter and detail.

I have in all cases refrained from indicating the source of my information, so as to save individuals from being blamed for their opinions; this has been necessary to induce officials especially to speak freely. I hope that nothing in this Report will be found offensive to any of the other States. I have, as far as possible, refrained from making comparisons, but some have inevitably been suggested, especially between Victoria and New South Wales. I have received in Sydney, as in all the other States and New Zealand, the utmost courtesy and help, and should be sorry if anything herein were taken to reflect on the mother State.

My visits to the other States and New Zealand have been of great educational value to me, and will give me a capacity of comparison that no study at home could give. I spent, on an average, less than a week at each capital. The time was shorter than was desirable, but sufficient for my purpose in most cases.

I have the honour to be,
Sir,
Your most obedient servant,
H. M. MURPHY.

The Honorable
Sir Alexander J. Peacock, K.C.M.G., M.L.A.,
Premier and Minister of Labour,
Melbourne,
Australia.

FACTS AND HAPPENINGS LEADING UP TO THIS REPORT.

On 12th November, 1913, the President, Vice-President, and Executive Officers of the Victorian Employers' Federation petitioned the Honorable the Speaker and members of the Legislative Assembly "that legislation should be introduced, making lock-outs, strikes, picketing, and intimidation illegal, involving penalties."

The Premier of the day, the Hon. W. A. Watt, called upon me as Chief Inspector of Factories and Shops, for a report for the information of the Cabinet.

My Report dealt shortly with the laws in force throughout Australasia for the prevention and settlement of lock-outs and strikes, and concluded with a table embodying all the figures regarding strikes which had up to that time (November, 1913) been published by Mr. G. H. Knibbs, Commonwealth Statist.

These figures showed Victoria—without any strike prevention legislation—compared so favorably with the other States—all of which had anti-strike laws in force—that the Cabinet decided not to accede to the prayer of the petition.

During the debate (November and December, 1913) on the Amending Factories Bill in the Assembly, the Hon. J. E. Mackey moved for the insertion of clauses designed to directly forbid and penalize strikes and lock-outs. These provisions were largely founded on the laws of New Zealand and South Australia. A copy of them is printed in Appendix A. The Bill did not pass.

In September, 1914, during the debate in the Legislative Council on the Amending Factories Bill, similar clauses were brought forward by the Hon. Arthur Robinson. They were opposed by the Government, and the Hon. W. L. Baillieu promised that full inquiries should be made into the working of strike laws in other countries, with a view to the adoption of the best. The clauses passed the Council, but were rejected in the Assembly.

In your policy speeches at Creswick and other places you confirmed Mr. Baillieu's promise, and said you had

instructed the Chief Inspector of Factories to visit all the other States and make a report.

During the current year I have visited in turn South Australia, Western Australia, Tasmania, New Zealand, New South Wales, and Queensland, and interviewed officials, representative employers and employees, and others, to obtain their views on the strike prevention laws in each case, and to ascertain the merits and faults of these laws. In making my recommendations, I have taken into consideration the knowledge thus gained, and supplemented it by the experience I have had as head of the Sub-Department of Labour at Melbourne.

Apart from strike prevention, the practice of our neighbour States in such matters as transferring the workless from city to country districts by means of country employment agencies and free passes, the building of cottages, and the uplifting of the workers by transferring families from the low morality of the slums to the more healthful and moral surroundings of such places as Daceyville, near Sydney, has been of very great interest.

One thing brought into relief by my inquiries is that no two States have the same method of preparing statistics. Inquiry into the number of strikes at once shows the necessity of a definition of "strike" as against "industrial dispute." If one desires to compare the cost of two systems, it is immediately found that a basis of comparison is lacking. I would urge that in the interest of the student of labour problems a uniform definition and a uniform method of collecting statistics be as soon as possible arranged among the States and in New Zealand.

RECOMMENDATIONS.

I beg to make the following recommendations:—

Recommendation (a)—

Perfect the Wages Board system of Victoria, and extend it so that any class of worker, who can show the need for protection, can come under a Wages Board.

The comparative immunity from strikes in Victoria (see Appendix D) can hardly be ascribed to the fact that Victoria is the only State in Australasia where lock-outs and strikes may be undertaken at will without penalization. It would surely be fallacious to say that because we have no anti-strike laws we have few strikes. A better explanation is that the Wages Board system of regulating wages and conditions secures a greater measure of industrial justice for the workers than is afforded by systems in other States, and so takes away the necessity and desire for strikes. Employer and worker, each for more or less different reasons, desire to avoid industrial disputes, and will usually, in preference to taking extreme measures, turn to the existing tribunal for the redress of grievances, provided that tribunal is one which enjoys their confidence. The Wages Board, as we know it in Victoria (so happily conceived and introduced to the law by yourself as Chief Secretary in 1896), where every member is an expert in the branch of the trade he represents, and where an equal number of employers and employees meet on equal terms at a round table is, in the opinion of one of the latest students of Australian Labour Laws, Professor M. B. Hammond, of Colombia University, Ohio, the most perfect method of collective bargaining yet devised. His articles in the *Quarterly Journal of Economics,* November, 1914, and February, 1915, are worth reading.

Experience of the working of our law, however, shows that there are ways in which it can be improved. If imperfections could be amended out of existence, I believe our law, which has already shown itself to be at least as successful in preventing industrial disputes as any law in the world designed directly to that end, will be more and more successful in exact proportion as its justice is increased, and that if it could really be made perfect, it would then be better to leave it to its operation in preference to the enactment of a law which will depend on force to discourage strikes and lock-outs.

The belief that industrial justice is a more powerful counter-strike factor than strike penalties is borne out by

the fact that strikes—at least in Australia—are more frequent in high-wages trades than among the lower-paid workers. The simple expedient of raising wages does not prevent strikes. In Victoria one of the recent strikes was by export slaughtermen, who were not under a Board, receiving £1 a day and more; while men under Boards in other trades receiving less than one-third of that amount were contentedly at work. New Zealand furnishes a similar instance in the waterside workers' strike of 1913, and a large proportion of the strikes in New South Wales are among coal miners, who are well paid.

Only three Australian States, Queensland, New Zealand, and South Australia, have laws which are worth examining from the Victorian point of view. Of the other States, New South Wales and Western Australia have laws founded on the idea of a judicial tribunal instead of the collective bargaining of a Wages Board, and, consequently, inapplicable to our system, while Tasmania has merely a couple of sections forbidding strikes and lock-outs.

The law of Queensland (secret ballot) has been in force two and a half years, that of New Zealand (secret ballot) eighteen months, and that of South Australia (direct penalties with power in a Judge to act before the breach occurs) two and a half years. These periods are too short to provide any valuable evidence of merit or defect, but no strike of large dimensions has taken place in any of these States since their anti-strike laws came into force, and fewer strikes of small size than before. This is undoubtedly strong proof in their favour, but not (in my opinion) conclusive proof that such laws are the best expedient for lessening disputes. The same result followed Richard Seddon's New Zealand Act of 1894, entitled "An Act to Encourage the Formation of Industrial Unions." In that case the discipline of the unions was relied on, and New Zealand came to be known as a land without strikes, until a number of smaller disturbances culminated, in 1913, in the great waterside workers' strike. It may be that as time wears on this experience will be repeated with the laws of Queensland and South Australia, and that ways

will be found of evading them. In Appendix B it is shown that some of them are made useless by the way they are administered, *i.e.*, by non-enforcement, and that all of them can be more or less easily evaded.

The laws in parts of the world outside Australia, excepting perhaps Canada and South Africa, are of little use as a guide, from the fact that conditions from military and other points of view are so different. It is interesting to note that no two laws in Australia, nor, indeed (as far as I can find), in the world, have quite the same provisions against strikes and lock-outs. This may be accounted for in part by the different conditions, but it also suggests that anti-strike law has not yet evolved; that it is in its elementary stage; and that each country as it set about choosing its method turned down every system already in existence and proceeded to set up a new one of its own.

It is doubtful whether any penal law in this connexion can be framed so that it cannot be defeated either by non-enforcement or by evasion. If such a law can be successfully devised it would materially lessen lock-outs and strikes, provided it is worked in conjunction with a just labour-regulating Act such as our Victorian Wages Board law. Further on I have endeavoured (Recommendation (*c*)) to show how this can be done.

I beg to suggest alterations in the Victorian Wages Board Laws in the direction of:—

Nominee Boards.

At present one-fifth of the employers and employees affected can demand an election. It frequently happens that when an election is held the section of the trade which is numerically superior secures an unduly large proportion of Board members, to the exclusion of one or more smaller branches of the trade. The essence of the Wages Board system is that each Board is a jury of experts with representation for every branch of the trade. This

will not be complete until the nominee system is adopted, with, perhaps, in some cases, larger Boards than at present.

Qualification of Members of Boards.

Section 136 of the Factories Act requires that, as a qualification for membership, a person must be actually engaged in the trade concerned, or have been at least six months out of the past three years actively so engaged. This excludes managers of companies from representing employers, and Union secretaries from representing the workers. The object of the restriction appears to have been the desire to exclude the "red-ragger" from Boards. That it has not done, for the real red-ragger is more often the man freshly come from his working-bench full of main-strength and zeal, burning to achieve, but entirely lacking in knowledge of methods or of the rights and difficulties of the other side. His zeal is liable to be misdirected, his methods are of the sledge-hammer type, and much time is required before he learns gentler and more successful methods. The Act as it stands admits such a man to membership, but if the same man ceases to work at his trade for three years while he acts as a member of a Board he loses his qualification, yet his experience on the Board has made him a far more desirable and effective member than when he began. One of the most valuable influences of Wages Boards is the educative effect they exert on both employer and employee. Each side gets to know the difficulties of the other, and it is safe to say that, with very few exceptions, the "red-ragger" who has had three years on a Board is, under the present law, just coming to his best when he must make way for some one else, perhaps another "red-ragger." The section designed to exclude an undesirable class of representative has not been a success. For

that reason, and because it is only fair that each side should have its claims put forward by the advocates they regard as the best, and in order to increase the confidence in the justness and efficiency of Wages Boards, and so heighten their usefulness in the direction of industrial peace, the area of selection should be widened. Any person who has at any time been engaged at the trade either as employer, manager, or worker for a period of at least three years continuously should be eligible for appointment.

Powers of Boards.

It is frequently said that Victorian Wages Boards have not enough power. In my opinion they have too much. The Boards in New South Wales have far greater powers than ours. A glance at the graphs in Appendix D will show that their greater jurisdiction does not make for industrial peace. I have no intention of carping at the way our Boards have used their powers, but it is obvious that, with a large number of Boards working separately, the wider the powers exercised by each Board are, the greater will be the overlapping and lack of co-ordination.

Complete co-ordination could be attained by a system of grouping and appointing a Super Board for each group, to legislate, for all the trades in the group, such matters as time of starting and ending work, rates for overtime, improvers and apprentices, holidays, and generally everything except wages, which would be fixed by the Wages Boards as at present. The present Boards would then become *Wages* Boards in fact as well as in name, and their functions would be confined to the fixing of wages.

Take, for instance, the building trades group. The Boards now existing would fix rates of pay for the bricklayers, builders' labourers, carpenters,

painters, plasterers, plumbers, and stone-cutters, while the Super Board would fix all other conditions of trade, and so secure uniformity right through the group. Such an anomaly as, say, carpenters and bricklayers leaving work at different hours, observing different holidays, or receiving different proportional rates for overtime work would then cease to be possible.

There are many other groups of trades, and the builders' trade is given merely as an example.

Speeding up Boards.

If, instead of the present system of paying chairmen and secretaries of Boards according to the number of meetings, they were paid a fixed annual sum, to be the same whether the Board met often or not at all, it might have the effect of hastening conclusions. It would certainly relieve the chairman from the accusation sometimes heard of prolonging the deliberations for the sake of the fees.

Extension of Wages Boards.

As the law stands at present, a trade can only be brought under a Wages Board by the process of passing a resolution to that effect through both Houses of Parliament.

It is usual to begin by a petition to the Minister of Labour asking for a Board and setting out the number of persons likely to be affected, and their rates of pay, hours of labour, &c. After exact statistics have been collected, the Minister examines them, and if he finds justification for a Board he launches the resolution. The two Houses invariably pass it, and a Board is appointed.

There is no very apparent virtue in the present plan of requiring both Houses of Parliament to consent. That was, no doubt, a wise precaution

when Wages Boards were new and on their trial. Now that 145 Boards have been appointed, it may well be conceded that the experimental stage has been passed, and the method of bringing Boards into being should be simplified. That is the more so since most trades that are suitable for regulation in that way are already under Boards, and it is unlikely that many more new Boards will be appointed. The power to grant Boards might be vested in the Minister of Labour. Such a power would without doubt be used as a means of bringing the contending parties together either before or after the actual breach. Of course, the offer of a Board can be used now as a conciliatory measure, but it is of little use because of the delay inseparable from parliamentary action. In the hands of a Minister of Labour the power to immediately erect a Board would be a very valuable instrument of conciliation.

Recommendation (*b*)—

Provide that, on the occurrence of a strike (*not a lock-out*), *the Determination* (*if any*) *shall automatically be suspended for six months, or, if the strike lasts longer than six months, till it ends.*

Although the striker does not, under our present law, commit any punishable offence by striking, he turns his back upon the law which protects him from being sweated. He cannot properly have his Wages Board and his strike at the same time. He should either respect and abide by the bargain made by his representatives on the Board or lose the protection afforded by the Determination.

The occurrence of a strike should *ipso facto* cancel the Determination.

The locker-out is in a different case in this connexion. The suspension of the Determination would not be any punishment to him. A lock-out might even be used as a means of getting rid of the necessity of paying minimum

rates, and so the automatic suspension should not be applied to a lock-out.

The existing law provides for the suspension of the Determination in case of a strike or industrial dispute (section 173), but this suspension is not automatic. It depends on executive action by the Minister of Labour. On only two occasions has this power been exercised. On 13th October, 1913, the Builders' Labourers' Determination was suspended for six months, and on 20th July, 1914, the Bread Board Determination was suspended for one month.

Recommendation (*c*)—

Enact laws applicable only to trades or branches of trade regulated by Wages Boards and to public utility trades providing for—

i. **Notice of intention to lock-out or strike;**

ii. **A secret ballot to be taken by a named official immediately notice is received. Wages Board election rolls to be used;**

iii. **If a majority of voters on the roll have declared in the affirmative a lock-out or strike to be lawful after the expiry of seven clear days from the declaration of the result of the ballot. In all other cases lock-outs and strikes to be unlawful, automatic prosecutions to follow against every offending individual (not Association or Union), with fixed penalties of £50 on employers, £5 on workers;**

iv. **Penalties to be a charge on property, earnings, and wages until recovered;**

v. **The prerogative of the Crown to pardon offenders and remit strike and lock-out penalties to be abrogated.**

This recommendation does not follow the example set in many laws throughout the world and confine strike prevention to public utilities. To do so would hardly suit our conditions, because some public utilities are under Boards, others not, and because Board regulation is extended to many other trades besides public utilities.

It is proposed to confine strike penalties to Wages Board Trades and Public Utility Trades, for these reasons:—

It is a principle of British law that wherever a legal means of redress is provided, no man has the right to set aside the law and help himself by force.

> The existence of a Board in a trade signifies the bringing of that trade under a legal tribunal, with power to take measures for the cure of grievances. The workers in the trade receive the benefits of enhanced wages fixed by the Board and enforced by the State officials, and thereby forfeit their right to take lawless action.

The equitable right of the community to punish lockers-out or strikers is, therefore, clear as far as Wages Board trades are concerned, but the case is different as far as concerns trades not under that protection—except public utilities. In other words—the community which has placed A, B, and C under the protection of Boards has a right to say "You shall not be allowed to strike without penalty," but until such time as D, E, and F are under the same protection the equitable right to prevent D, E, and F, from using what may be the only weapon left them to secure a hearing, is not clear.

Public utilities are usually considered to be:—

(*a*) The manufacture or supply of coal gas for any purpose;
(b) the production or supply of electricity for light or power;
(c) the supply of water for domestic purposes;
(*d*) the supply of milk, flour, or bread for domestic consumption;
(*e*) the slaughter or supply of meat for domestic consumption;
(*f*) the getting, sale, or delivery of coal or other fuel for any purpose;
(*g*) the protection of buildings and other structures from fires, and the prevention and extinguishment of fires.

Stoppages of work in such cases as these will ordinarily be much more serious than in other trades. The dispute in its effects is not confined to the actual parties—employer

and employed—but threatens the health, activity, and even the life, of the community. This is the reason underlying the general prohibition throughout the world of direct action in public utilities.

In Victoria the only public utilities not under the Wages Boards are gas workers, who are under an award of the Commonwealth Court, and firemen, who are unregulated.

If the question is raised of making stronger penalties in public utilities than in other cases, I would urge that the measures suggested in this Report are the strongest preventives within the limits of practical possibilities that can be devised, and that to make the fixed forfeitures higher in amount would not in actual application have any more deterrent effect. The endeavour has been to adopt those measures which will be most likely to secure—in all human probability—that the punishment will surely follow the offence. Moderate penalties are more likely to be effective to that end than excessive ones. Many people think the simple expedient of increasing fines is the surest way to diminish law-breaking. Experience shows that it is not so, but that the provision of moderate penalties with such an administration as will insure that the punishment will follow the breach in all cases, has a far greater influence in lessening the number of offences. Where the penalties are high, it is found that offenders are not informed against, witnesses are adverse, and courts from a sense of pity are lenient and refuse to convict, and so the object of the law is not attained.

Beccaria in his book on punishments, published 1764, said:—

"Crimes are more effectually prevented by the certainty than the severity of punishment. Hence in a magistrate, the necessity of vigilance, and in a judge of implacability which, that it may become an useful virtue, should be joined to a mild legislation. The certainty of a small punishment will make a stronger impression than the fear of one more severe, if attended with the hopes of escaping; for it is the nature of mankind to be terrified at the approach of the smallest inevitable evil, whilst hope, the best gift of heaven, hath the power of dispelling the apprehension of a greater; especially if supported by examples of impunity, which weakness or avarice too frequently afford. . . . . That a punishment may produce the effect required,

it is sufficient that the evil it occasions should exceed the good expected from the crime; including in the calculation the certainty of the punishment and the privation of the expected advantage. All severity beyond this is superfluous, and therefore tyrannical."

I have endeavoured to show the surest means that can be adopted of getting every locker-out and striker fined in a moderate sum.

i. Notice of intention to lock-out or strike.

This is similar to Queensland and New Zealand law.

ii. A secret ballot to be taken by a named official immediately notice is received. Wages Board election rolls to be used.

The greatest problem in connexion with secret ballots is the compilation of the voters' roll. In New Zealand no secret ballots have ever been taken, though the Act providing for them has been in force since December, 1913. The making of the roll there is left in the discretion of the Secretary for Labour to include names or exclude them, as the circumstances of the particular case demand. In Queensland only those directly connected with the proposed strike are enrolled. This, I think, is too restricted a suffrage to secure a decision of any value. I take it that the underlying idea of the secret ballot is that, with the breathing time necessary for the taking of the vote, the real merits of the question will gain more weight, and so an improper strike will be more likely to be negatived, while a proposed strike that has been favoured by an affirmative vote will from that fact carry a large measure of justification, and proof that there are wrongs which should be set right. The larger, therefore, the vote is the more reasonable it is likely to be, and the greater its claim to be an index to the merits of the dispute. In Victoria the same roll might be used as for the election of members of Wages Boards. This roll is compiled from lists sent in by employers, supplemented by the addition of any person who can show he has the qualification of a voter.

iii. If a majority of voters on the roll have declared in the affirmative a lock-out or strike to be lawful, &c.

Neither Queensland nor New Zealand has (as far as I could discover) any provision for requiring a percentage of votes. This omission is a defect, for it would be possible for a small fraction of those interested to go to the poll and legalize a strike by a large body of men who had not gone to the poll.

Suppose a roll of voters contained 200 names, but that only 50 votes were recorded. Of these, 30 were for a strike and 20 against. The effect of this would be that the votes of 30 people legalized a strike of 200. This could be cured by a provision such as the one recommended. Compulsory voting is not very practicable, and therefore a fixed percentage is recommended.

Automatic Prosecutions.

In almost every State I found that strikers and lockers-out were not prosecuted, except in such cases as the Minister directs. In New South Wales the proportion of law-breakers prosecuted is said to be 4 per cent. I am not at all sure that the proportion is higher in other States, but I was unable to obtain figures. In Appendix B will be found instances of non-enforcement of the penal provisions. See pages 16, 18 and 21.

Prosecuting Individuals (not Unions).

The policy in Victoria has always been for the State to detach itself from Unions, neither helping nor opposing them, but regarding unionism as a matter for the private concern of the members of the association.

If the essence of that policy is to be preserved, the law must lay all penalties on the individuals who break it, quite apart from any question as to whether they belong to a Union or not. If Unions were penalized an essential principle of our law would be departed from, and there is no reason to suppose the penalization of the individual will be less successful because Unions are left untouched. Moreover, an impartial examination of the facts will show that

the influence of Unions has been mostly on the side of peace.

Fixed Penalties of £50 and £5.

In some instances our Acts seek to prevent contemptuous penalties by enacting that offenders on conviction *"shall be fined not less than £ ."* Experience has not shown any great success, for it is found that the minimum penalties are regarded as too severe and, as a consequence, offenders are not informed against, witnesses are unwilling to testify, and magistrates take a lenient view. It is believed that the law-breaker gets less punishment in such cases than he would if no minimum had been fixed.

The practice of fixing the *highest* limit of punishment is on the other hand well established, and has everything in its favour.

I am not aware of any case where the Victorian law enacts a fixed penalty—neither more nor less—as in this recommendation, but there are aspects of the offence in question which differentiate it from all other offences, and make the rules and experiences of criminal law more or less inapplicable as precedents.

In support of a fixed penalty the following reasons suggest themselves:—

1. To lock-out or strike is not a criminal offence in the ordinary sense. It is more in the nature of a "tort," and a fixed penalty might be regarded as the sum appraised as damages for a trespass.
2. The discretion vested in courts of fixing the amount of the penalty according to the turpitude of the offence, is less applicable to a trespass than to a crime.
3. Fixing the penalty will not only protect the community from inadequate punishment of lock-outs and strikes, but also the accused from excessive and unreasonable amercements.

4. Thus the effect and injustice of a biassed Bench—no matter on which side the bias is found, will be counteracted.
5. In dealing with a large number of men the proceedings will be shortened and simplified.
6. The fixing of the penalties is consistent with and will assist the principle of automatic punishment.

A comparison of the penalties which may be imposed for lock-outs and strikes in other States—they run up to £1,000 in New South Wales and Queensland—will show that the amounts herein proposed are moderate.

iv. Penalties to be a charge on property, earnings, and wages until recovered.

This is according to successful practice in New South Wales and other States.

v. The prerogative of the Crown to pardon offenders and remit strike and lock-out penalties to be abrogated.

I beg to submit this recommendation in all humility and diffidence.

It is the prerogative of the Crown to pardon offenders and to remit any monetary penalty or imprisonment. This power is exercised in these States by the Governor in Council on the advice of his Ministers. I have found instances in Australia where it has become the practice to remit fines imposed on strikers before the fine has been collected.

It will be admitted that, if any law is to comply with the essential principle of making it certain that in all cases the commission of an offence will be followed by punishment, the practice of remitting fines must be by some means done away with. It is no answer to say the Ministry in this State would not advise the Governor in Council to remit. The law we enact now should be made to be effective, no matter what Ministry is in power. This

must be my excuse for suggesting such an organic departure from the constitutional usage.

The Habeas Corpus Act, 31 Car. II., Chap. 2, Section 11, is an instance of a case where the sovereign gave up his Royal prerogative. The words there used are "incapable of any pardon from the King in respect to such forfeitures or disabilities." I must leave to constitutional lawyers the question of whether and how it can be done, but I am informed that a surrender of the prerogative in positive terms would be necessary, and that this could only be effected by Imperial legislation, or by reservation of the State Bill for Royal assent.

Recommendation (d)—

Provide for taking a secret ballot in any trade whether regulated by a Wages Board or not at any time during a strike whenever ordered by the Minister.

The New Zealand Act of 1913 provides for a ballot being taken during a strike whenever demanded by 5 per cent. of the workers.

Mr. Harris Weinstock, Special Labour Commissioner for California, in his report on the Labour of Austria (see page 22), says:—"In order to prevent the selfish among the labour leaders from needlessly prolonging strikes in their own interests and at the cost of capital and labour, and in order, also, to prevent the Union members from being terrorized by radical unionists, the rule is faithfully followed (in Austria) during a prolonged strike, of taking a weekly secret ballot on the question—'Shall the strike be continued?'"

Mr. Piddington, in his 1913 report on Industrial Arbitration in New South Wales, page cxix., says:—"The next question is whether the taking of a ballot during a strike ought to be permitted. All the reasons which seem to make this course judicious in the case of a ballot before a strike apply and, indeed, apply with greater force, to the case of a strike which has already begun. There can be

no doubt (to use a homely phrase) men often enter upon strikes with hot heads and get cold feet before very long, but a feeling of shamefacedness and obstinacy operates to prevent them from declaring in a meeting of their fellows against continuing the fight. Moreover, once battle is joined, it is only human nature that young and aggressive men especially, without family obligations such as ordinarily give a higher sense of responsibility, are apt to keep up the perhaps waning resolve of their fellows when everything is decided in a public meeting, where even brave men may exhibit the last weakness of the courageous—the fear of being thought afraid."

If *durante bello* ballots were provided for it would be necessary to definitely set forth the effect of a vote for and against, and to decide whether ballots should be taken weekly, fortnightly, or monthly, or, indeed, whether they should not be taken only when the Minister of Labour considered advisable, or, perhaps, the New Zealand plan of taking a ballot whenever 5 per cent. of the men demanded it, might be adopted. Presumably a vote in favour of the continuance of the struggle (no matter how few or how many votes polled) should legalize its prolongation, while a negative vote (provided 50 per cent. of the votes on the roll were recorded) should make it punishable for any employer to refuse to employ or any worker to refuse to accept work in the trade.

APPENDIX A.

Factories and Shops Bill.

(New Part and Clauses proposed in Committee by Mr. Mackay, in November 1913.

Part II.—Strikes and Lock-Outs.

W. In this Part unless inconsistent with the context—

"Employee" means any employee in any industry and includes any person whose usual occupation is that of an employee in any industry.

"Employer" means any person firm company or corporation employing one or more employees in any industry whether on behalf of himself or any other person.

"Industry" includes any process trade business or occupation.

"Lock-out" means the act of an employer in closing his place of business or suspending or discontinuing his business or any branch thereof with intent—

(a) to compel or induce any employees to agree to terms of employment or comply with any demands made upon them by the said or any other employer; or

(b) to cause loss or inconvenience to the employees employed by him or to any of them; or

(c) to incite aid abet instigate or procure any other lock-out; or

(d) to assist any other employer to compel or induce any employees to agree to terms of employment or comply with any demands made by him.

"Strike" means the act of any number of employees who are or have been in the employment whether of the same employer or of different employers in discontinuing that employment whether wholly or partially; or in breaking their contracts of service; or in refusing or failing after such discontinuance to resume or return to their employment; or in refusing to enter into fresh contracts of service whether with the same or any other employer, the said discontinuance breach refusal or failure being due to any combination agreement or common understanding whether express or implied made or entered into by the said employees with intent—

(a) to compel or induce any such employer or employers to agree to terms of employment or comply with any demands made by the said or any other employees; or

(b) to cause loss or inconvenience to any such employer or employers in the conduct of his or their business; or

(c) to incite aid abet instigate or procure any other strike; or

(d) to assist employees in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made by any employees.

The fact that three or more employees have simultaneously or at times nearly simultaneous discontinued their employment broken their contracts of service refused or failed after such discontinuance to resume or return to their employment or refused to enter into fresh contracts of service shall unless the contrary is proved by such employees be conclusive evidence that such discontinuance breach refusal or failure was due to a combination agreement and common understanding made and entered into by such employees.

X. (a) When a lock-out takes place in any industry in which a Special Board has been appointed on which the Determination of a Special Board or an award of the Court of Industrial Appeals is in force and in which no strike is taking place such lock-out shall be deemed an illegal lock-out.

(b) Every employer who is or becomes a party to an illegal lock-out shall be liable to a penalty not exceeding One thousand pounds.

XX. (a) Where a strike takes place in any industry in which a Special Board has been appointed or in which the Determination of a Special Board or an award of the Court of Industrial Appeals is in force and in which no lock-out is taking place such strike shall be deemed an illegal strike.

(b) Every employee who is or becomes a party to an illegal strike shall be liable to a penalty not exceeding Fifty pounds.

Y. Every person who instigates aids or abets any such illegal lock-out or illegal strike or the continuance of any such illegal lock-out or illegal strike or incites instigates or assists any person to become a party to any such illegal lock-out or illegal strike shall be liable if an employee to a penalty not exceeding Fifty pounds and if an employer to a penalty not exceeding One thousand pounds.

YY. Any person who either by himself or with others at or near any workshop factory place of business or other place where any strike or lock-out is taking place or is threatened or impending or has taken place or at or near the residence or place of business of any person or in any railway train or public conveyance or in or at any place whatsoever induces or attempts to induce any other person to take part in such strike or lock-out or to do or abstain from doing any act matter or thing whereby any party to such strike or lock-out or any other person either directly or indirectly interested therein or connected therewith may or might be injured in his trade business or calling shall be guilty of an offence and on conviction shall be liable to a penalty not exceeding Twenty pounds or to imprisonment with or without hard labour for a term not exceeding three months.

Z. (1) Any person who either by himself or with others—

(a) intimidates or attempts to intimidate any other person; or

(b) countenances the intimidation or attempted intimidation of any other person,

shall be guilty of an offence.

(2) Such offence may be proved—

(i) by the words acts or conduct of the accused person;

(ii) by the voluntary presence of the accused person in or among a company of persons which or a substantial part of which is using any menacing threatening violent abusive words acts or conduct or any words acts or conduct calculated to intimidate or deter any person from accepting discharging or following any lawful vocation or employment or from lawfully doing or abstaining from doing any act or thing;

(iii) by any other lawful evidence.

(3) On conviction such person shall be liable to a penalty not exceeding Twenty pounds or to imprisonment with or without hard labour for a term not exceeding three months.

ZZ. (1) When a pecuniary penalty is imposed on any employee under this Part the court imposing such penalty shall order that the amount of such penalty shall be a charge on any moneys which are then or which thereafter may be due to such person from his then or any past or future employer (including the Crown) for wages or in respect of work done: Provided that such charge shall not have effect so as to deprive such person of more than twenty-five per centum of any sum for wages or in respect of work done due to him from any one employer in any one week.

(2) On the making of any such order a copy thereof shall be served on any employer sought to be made liable and it shall thereupon become the duty of such employer to from time to time pay such moneys to a clerk of petty sessions as they become payable in satisfaction of the charge imposed by such order, and such payment shall to the extent thereof be a discharge of any obligation whether statutory or otherwise on the part of the employer to pay such moneys to any person.

(3) No charge upon or assignment of his wages or of moneys in respect of work done or to be done whether then due or thereafter to become due and whenever or however made by such person shall have any force whatever to defeat or affect such order, and any such order may be made and shall have effect as if no charge or assignment existed.

(4) Upon complaint of disobedience of any such order a copy whereof has been served as aforesaid, any person may summon before a court of petty sessions the employer so sought to be made liable to show cause why he should not obey such order. On the return of the summons the court shall consider the matter of the summons and shall hear and determine any issue that may be raised and shall order the employer to pay into court any sums found to be payable under the first-mentioned order and may order that the sums so ordered to be paid be raised and levied by distress. The costs of and incidental to the summons shall be in the discretion of the court.

ZZZ. (a) Where any person is charged with an offence under this Part such charge shall be heard and all Penalties imposed by this Part shall be recovered before a court of petty sessions consisting of a police magistrate sitting alone or with one or more justices.

(b) Notwithstanding anything contained in section two hundred and twenty of the Principal Act any proceedings against any person charged with an offence under this Part may be taken by any member of the police force or by any inspector or by any employer or body of employers (whether incorporated or not) or by any employee or body of employees (whether incorporated or not) in the industry affected by the strike or lock-out in connexion with which the offence has been or is alleged to have been committed, and such proceedings may be taken without report to or direction from the Minister.

APPENDIX B.

STRIKE LEGISLATION IN AUSTRALASIA.

NEW SOUTH WALES.

Industrial Arbitration Act 1912.

Section 43 creates a Special Commissioner whose duty it is to summon a conference whenever any question has arisen that in his opinion might lead to a lockout or strike. His duty is to endeavour to get the opposing parties to agree in such a way as to obviate the threatened strike.

Section 44. Employers who lockout may be fined £1,000.

Section 45. Employees who strike may be fined £50.

Section 47. Union who aids or instigates strike may be fined £1,000.

Section 45 makes a strike penalty a charge on the strikers' wages.

Section 46 makes the Union liable for penalties not exceeding £20.

Section 48 empowers the Industrial Court to grant a writ of injunction to restrain a lockout or strike.

These penalties are direct, that is to say, lock-outs and strikes are unlawful under all circumstances. This is in contradistinction to the law of Queensland and part of the New Zealand law, under which they are only punishable where entered on without preliminary notice.

The large number of strikes here does not encourage the belief that the system of conciliation has been a success. The number and volume of strikes have not decreased since the Act was passed in 1912.

It is open to suspicion that the "Arbitration Act 1912" has encouraged rather than lessened strikes. It is the duty of the Commissioner to act wherever he thinks there may be a strike, if he thinks any action of his may avert it. He brings the parties together in conference, and whatever happens the men cannot lose. Any terms that may be conceded must be for their benefit, and consequently it is conceivable that many bodies of men have struck or threatened a strike in order to obtain the offices of the Commissioner and any benefits that may accrue.

It is true that there has been some lack of firmness of administration in leaving lawbreakers unprosecuted and in remitting penalties. Mr. A. B. Piddington, who acted as a Royal Commission in 1913, says on this point, page cxiii—"The duty, therefore, of prosecution has

been left in practice under the present Act entirely to the Executive. A serious objection to this is that, although the law punishes the mere act of striking, that Act is very often regarded by the public with feelings of a very divided nature, and such feelings are naturally apt to reflect themselves in the decision by the Executive of the question whether there should be a prosecution or not. . . . . The point, however, is that, in this and similar ways, Executive action, involving the very life and efficiency of the law against strikes, becomes inevitably bound up with considerations of public opinion and of fair excuse in the particular case, and with matters more or less political in their nature."

The Act does not specify upon whom the duty of prosecuting shall fall, but action may be taken either by officers of the Labour Department or by common informers. As a matter of fact only about one lawbreaker in every 25 is prosecuted. Very few fines reach the public revenue, owing to the fact that fines are remitted. I was unable to find out the proportion of fines so given back, but I was given to understand that the prerogative of the Crown to forgive an offender and remit the penalty inflicted by the court for striking was freely exercised.

New South Wales is in the unenviable position of having more strikes than any other State in Australia (see Appendix D).

The strikes among coal miners account for the most of them, and, in the opinion of a high official in Sydney, the reasons why these workers strike more frequently than any other trade are:—

1. Coal miners live in close communities, apart from workers of other trades.
2. They are more insular, and have a stronger community spirit.
3. They have a greater community of interest, from the fact that a discharged coal miner must seek work in a new colliery or district, and so dismissal involves greater punishment than in the case of other workers.

One of my informants said—"Penalties have been remitted before they have been collected, and so the penal provisions of the anti-strike law have been defeated. It is at times very hard, if not impossible, for a Minister of Labour to resist influence brought to bear to induce him to refrain from setting the strike-prevention law in motion or to remit penalties imposed. If the Minister himself is strong enough to resist the pressure, he can be indirectly moved through the other members of the Cabinet. I know that Ministers often are unable to withstand the pressure brought to bear, and that most Ministers would be glad to be relieved of it. That could, in part, be done by devising some means of making prosecutions of strikers automatic, and I would suggest that a report of a strike could be made in each case to a Judge, who would decide whether prosecutions should follow. This would take the odium of directing prosecutions from the shoulders of the Minister. I do not think it is possible to prevent the remission of penalties imposed. The prerogative of the Crown and the Constitution is involved."

Mr. Piddington touches on this question in his report on page cxiii, under the heading "Automatic Prosecution." After having (on a previous page) referred to the automatic attachment of wages under section 45 by saying "when a penalty is inflicted the new feature is introduced of the automatic operation of punishment by making it mandatory on the court to order simultaneously that the future wages of the employee shall be attached." He says, in refer-

ence to prosecutions for striking, "It seems therefore a safe conclusion, that in order to remove the uncertainty as to punishment which tends to make the deterrent embodied in the statute inefficient, it is desirable, if not indeed necessary, to remove from the sphere of ordinary Executive determination prosecutions of this kind . . . . and this result could be obtained by a provision that it should be the duty of some officer indicated, such as the Industrial Registrar, to bring before the court immediately a strike breaks out such evidence as he is able to obtain, and upon the court directing a prosecution to take all the necessary steps to carry it out." Mr. Piddington further says it would be necessary in that case for the law to make it mandatory on all persons to provide the officer with all information in their power as to any strike.

Even if the automatic attachment of wages for the payment of fines (section 45) were reinforced by automatic prosecutions of lockers-out and strikers, the Act could be shorn of effectiveness by the practice which I have already alluded to of remitting fines. It would be an easy matter to make prosecutions automatic, but it is a different matter when the prerogative of the Crown is involved. It is the Crown's prerogative to forgive an offender.

ADOPTION BY VICTORIA.

There is nothing inherent in the New South Wales system of strike penalties to prevent its adoption by Victoria.

NEW ZEALAND.

Industrial Conciliation and Arbitration Amendment Act 1908.

(This applies only to strikes and lock-outs where there is an existing Award or Industrial Agreement.)

Section 5. Penalty on striker, £10; on employer who locks out, £500.

Section 6. Penalty inciting or assisting a strike or lockout—On a worker, £10; on a Trades Union or employer, £200.

Section 9 provides higher penalties (£25) on workers who strike in public utilities, such as the supply of gas, electricity, water, milk, meat, or coal, or in the working of ferries, tramways, or railways.

Penalties are a charge on wages.

Labour Disputes Investigation Act 1913.

(This applies only to cases where there is not an Award or Industrial Agreement under the Act of 1908.)

Section 4. In any case of a dispute, notice thereof may be given to the Minister.

The Minister must thereupon refer the matter to a Conciliation Commissioner or a Labour Dispute Committee.

Section 7. If a settlement has not been arrived at within fourteen days from delivery of notice, the officers of the Labour Department will conduct a secret ballot.

Section 9. Every worker who strikes (a) before giving notice under section 4 to the Minister, or (b) before the expiration of seven days from the secret ballot, may be fined £10.

At any time during the progress of a strike, 5 per cent. of the workers concerned may demand a secret ballot on any question relating to the strike.

Similar provisions with regard to employers and lock-outs are in the Act, with penalties of £500 on any employer for an unlawful lockout.

New Zealand has two kinds of strike-prevention law—the direct penalty as known in New South Wales, and provided for in the Act of 1908, and the indirect penalty, only incurred when notice has not been given, and a secret ballot taken provided for in the Act of 1913 as known in Queensland.

The earliest Arbitration Act in New Zealand was entitled "An Act to encourage the formation of Industrial Unions and Associations," etc., and was dated 31st August, 1894.

The idea dominating the mind of Premier Richard Seddon at that time was that the authority of the associations would be enlisted on the side of industrial peace, and that their corporal control over their members would prevent injurious strikes and lock-outs. His trust was fully justified for many years, and New Zealand has been described by writers as a land without strikes, but, as time wore on, disturbances began to occur. They gradually became more frequent, till they culminated in the great waterside workers' strike of 1913. That strike began in October, and lasted till the end of December. The shipwrights who caused the strike evaded the provisions of the 1908 Act providing direct penalties on strikers by cancelling the registration of their Union and joining the unregistered Union of the waterside workers. As the 1908 Act only applies to Unions working under an award or registered agreement, and as an award or agreement can only be given or registered to a registered Union, they were able to escape penalties by this cancellation.

The strike was brought about in this way. Owing to the dispute between the employers and the shipwrights (caused by the cancellation above referred to), the Waterside Workers' Union called a general meeting of its members during working hours. A number of men who had been working the previous day at various ships attended this meeting without giving any notice to their employers. Other men were willing to work in preference to attending the meeting, and were put on. When the meeting was over the men who had attended the meeting were given other work. This did not satisfy them, they claimed that they should be put back at their old work. The employers refused to put off the men who had accepted the work while the others were at the meeting.

The strike began without warning by the calling out of all the workers. Ships in all stages of loading and unloading were left as they were, carters could not get or deliver goods, and the whole work of the wharfs and ports was at a stand-still. Conferences between the parties at issue failed to effect a settlement. Eventually the strike was broken by the efforts of citizens of all classes and farmers from country districts doing the work of the waterside workers among themselves.

If the shipwrights had not cancelled the registration of their Union and joined the Waterside Workers' Union they would have been liable to punishment under the Act of 1908. Their action demonstrated the fact that the Act could be evaded, and brought about the passing of the Labour Disputes Investigation Act, which became law on 15th December, 1913. It aimed at industrial associations which were not reached by the Act of 1908, but it proceeded on entirely different lines. While the 1908 Act provided direct penalties and

applied only to registered associations, the 1913 Act provided for a secret ballot, and indirect penalties, and applied only to unregistered associations. It will be noted that associations are mentioned in both Acts. It is an interesting comparison that, while New Zealand industrial law assumes that all trades and groups of workers and employers have some kind of union or association and only treats with employers or workers collectively through their association officials, our Victorian law treats Unions and associations as purely private matters. We deal with bodies of workers or employers irrespective of the question of whether associated or not, and while we are careful to refrain from any act which would be detrimental to Union interests, we are equally careful to preserve a judicial attitude, and refrain from partisanship in any shape or form. The Labour Department in Victoria deals with workers through the medium of Unions to an extent not less than the New Zealand Department, but the Union has no preference quâ Union. The same number of workers unorganized would receive equal treatment.

The 1913 Act was obviously framed on the model of the Canadian Act of 1907. It does not make strikes and lock-outs unlawful, but provides that, before the actual breach occurs, notice must be given. During the fourteen days' notice required a committee takes the matter in hand, and makes a report of the facts to the Minister. This report is published. If a settlement is not arrived at within the fourteen days, the Industrial Registrar takes a secret ballot "of those members of the society or societies of workers, party to the dispute, who are directly concerned in the matter of the dispute." Similar provisions apply to employers.

No matter what the result of the ballot may be, there is no offence if a lockout or strike follows after seven days have elapsed from the day the ballot was taken.

These wise provisions, designed to give a breathing space to allow hot heads to cool and to give proper opportunity for negotiation before the occurrence of the actual rift, have never been put into operation. Strikes and lock-outs have been absent since December, 1913, and no secret ballot has been taken, but whether this is attributable to the efficacy of the new law or to the unpleasant effects of the 1913 strike, or to a combination of the influence of both, is a matter of opinion.

One informant said—"I do not think penalties could easily be evaded by cancelling the registration of the association, or, in the case of an unregistered association, disbanding the association. The difficulties in the way would be sufficient to prevent practical application of such an idea. I do not favour the penalties being made automatic on the occurrence of a dispute. I do not think it would act as a deterrent if the award were cancelled and the registration expunged."

Another informant said—"Prosecutions have not always followed strikes. In the case of the builders' labourers and in the carters' sympathetic strike—both under the 1908 Act—no prosecutions were instituted. In the latter case an election was near, and that may have had its influence. The carters, too, are a very large body. Its political influence may have had its effect in preventing prosecution. A weak Union is more likely to be taken to court than a strong one. The automatic cancellation of the award on the occurrence of a strike would prevent many strikes, as the men would not put themselves to the expense and delay of getting a new award made. If the registration of the Union were also cancelled, it would give opportunity for the formation of a new Union, with fresh office-bearers."

ADOPTION BY VICTORIA.

These laws could hardly be made to suit conditions here. The two New Zealand Acts are based on entirely different ideas—the earlier provides direct penalties, and the latter for secret ballots. Some of the provisions of the last Act (Secret Ballots) are recommended for adoption, but others such as those relating to Conciliation, Commissioners, and Labour Dispute Committees would involve a radical alteration of the principles of our system, and so are inapplicable.

QUEENSLAND.

Industrial Peace Act 1912.

Section 35 forbids strikes and lock-outs in public utilities (the supply of gas, electricity, water, etc.), unless a conference has been held before an Industrial Judge and has proved abortive, and unless fourteen days' notice has been given and expired after the end of the conference, and a secret ballot has been taken of those "in the calling concerned."

In all cases other than public utilities, unless fourteen days' notice had been given and expired and a secret ballot has been taken of those "in the calling concerned"—

Section 36. Penalty on employer £1,000; penalty on worker, £50.

Penalties are made a charge on wages and on the funds of associations.

These penalties are indirect.

The Act here does not in so many words forbid strikes and lock-outs; it says in effect if you want to lock-out or strike, the law will not forbid you doing so, but it does forbid your doing so in hot blood. Strike if you will, but before you do so both sides shall meet and confer together (in public utility cases), and if the cause of trouble is not removed by this conference, every person interested shall (in all cases, public utility or otherwise) still have a safe and confidential opportunity of using his influence by registering his vote at a secret ballot.

Only three secret ballots have been taken since the Industrial Peace Act became law on 7th December, 1912. Each of them resulted in the voting being in favour of a strike. They were:—

Ironworkers' Trade.—One hundred and sixty-eight employees at Walker's Limited gave notice of intention to strike. They were all members of the Union. Other employees at the same establishment were not unionists, and did not take any part in the proceedings. The ballot was for a strike.

Coopers' Trade.—All the coopers in Queensland were members of the Coopers' Union. The notice of intention to strike was given by the Union for the whole of its members. The whole of the employees therefore in this case voted. The ballot was for a strike.

Tobacco Trade.—Eight tobacco twisters gave notice of intention to strike. I cannot say whether they were unionists or not. They voted unanimously for a strike.

The Voters' Roll.

The circumstances of this last case (eight tobacco twisters) invite attention to the most crucial question in connexion with the taking of a secret ballot, viz., that of who shall be allowed to vote. It would seem that where eight persons filed a notice of intention to strike the result of the ballot would be a foregone conclusion, but that if all the tobacco workers in the same employ or all those in the manufacturing trade or in the Union were allowed to vote the result might be different. The eight malcontents were rightly or wrongly obsessed with a belief that an injustice was being put upon them. The corporate sense of the larger body of tobacco workers might have taken a different view.

General.

The strike penalties in Queensland—unlike those in some of the other States—are not easily evaded. The only instance discovered occurred about the end of December, 1913 (just after the "Industrial Peace Act 1913" became law). The workers in the meat export trade, instead of giving statutory notice of intention to cease work, adopted the "lazy" strike. The average number of sheep treated per man per day was about 100. This was reduced to 20 or 30, the sheep began rapidly to die, and the men's demands were conceded.

One informant said:—"Strikes are mostly caused by misunderstandings, i.e., differences of opinion as to men's rights under awards, and as to the proper meaning and effect of awards. The opinion of the Crown Solicitor has frequently to be taken on the meaning and interpretation of words in awards. The official who polices awards has no hand in their construction, and so his experience of the most fruitful causes of trouble, which might be turned to useful account in framing awards so as to avoid disputes, is not made use of."

Another said:—"During the debate on the Industrial Peace Act a proposal was made to allow the wives of the balloters to vote also. The idea was that the women's vote would prevent all strikes, but the proposal was negatived or withdrawn, I cannot say which."

Another said:—"The common law indirectly prevents strikes. In 1905 the Shipwrights' Union demanded the dismissal of one, Heggie, because he had not paid his dues. They threatened to call all the dock workers out. He was discharged, and brought an action for damages for conspiracy to obtain his dismissal, and was awarded £100 damages.

"In another case, Stanley v. Queensland Typographical Association, the Union demanded the dismissal of an improver on the ground that improvers in a newspaper office had no opportunity of learning the whole of the branches of the printing trade. They threatened to enforce their requirement by a strike. The improver was dismissed, but brought an action through his father for conspiracy to prevent the boy earning his living, and was awarded £102 damages."

In this way the common law right to sue for damages would appear to have a deterrent effect on one particular class of strikes, viz., strikes called by Unions to enforce their demands against individual employers. In Appendix C will be found fuller particulars of these and similar cases.

ADOPTION BY VICTORIA.

Queensland was the first country in the world to provide by law for a secret ballot taken by State officials. The idea is quite applicable to conditions in Victoria, but would need modification on account of the fact that wages regulation is done by a court in Queensland and by a Wages Board here.

SOUTH AUSTRALIA.

Industrial Arbitration Act 1912.

Sections 38 and 39. Penalty for lock-out or strike, £500 on an association; £500, or three months' imprisonment, on a person.

Section 43. Penalty on picketing, £20 or three months.

Section 45. Penalty for striking to be a charge on all wages over and above £2 a week.

Section 46. The trustees of any labour association may be made to contribute to a strike penalty out of the funds.

The Judge of the Industrial Court brings the parties together when any dispute occurs, and has power to make an award in cases where there is not an existing award, or to vary any existing award or industrial agreement, or generally to make orders with a view to removing the cause of the friction.

Speaking broadly, South Australia has the same system of Wages Boards as Victoria, with the same right of appeal to a Supreme Court Judge, but their Judge is called an Industrial Judge, and has, in case of a strike or threatened strike, powers which are not possessed by our Industrial Appeal Court. He can call a compulsory conference in much the same way as Mr. Justice Higgins, of the Comomnwealth Court of Conciliation and Arbitration, does. If the dispute occurs in a trade which has not been given a board, he can make an award for that trade, and can make that award a common rule throughout the State. Through this channel any trade or occupation can be brought under regulation, even though Parliament has not granted it a Board. There are thus, in South Australia, Wages Boards Determinations regulating some trades and Industrial Court Awards regulating others. There is a general agreement in South Australia that this power in the Judge's hands has tended to discourage and lessen strikes, and there is a consensus of opinion that to Mr. Justice Buchanan's temperament and personality the success of the new system (in operation since December, 1912) is due.

The power of the Judge can be exercised in other cases besides, although the parties are not on strike nor threatening to strike. Section 13 provides a way of moving the Court, and experience shows that the employers have most often made use of this section in order to secure even conditions in their trade, and so as to have wages and conditions fixed, and for the sake of security in taking contracts.

One informant said:—"Strikes are less frequent since December, 1912. This Act has now had over two years' trial, and has proved a good thing for the workers, because it makes them afraid to strike. Formerly small strikes used to occur on insufficient provocation, and the Unions had to expend their funds in supporting the strikers. The workers prefer the Wages Boards to the Judge. They would rather have had an extension of the Wages Board system by the appointment of more Boards."

Another informant said:—"I approve most fully of the Wages Boards, supplemented by the Industrial Arbitration Court. The Boards are the best means so far devised, and the Court is a completion of them. A dispute occurred lately at Port Adelaide, the Judge called an informal conference at 8 p.m. the same night, and explained what pains and penalties might follow if they persisted in their expressed intention to go on strike. He further told them he would have to bring them up before him next morning if they did not go back to work. They were afraid of consequences, and did go back to work. The existence of the Court has had a markedly good effect in lessening strikes. The Judge acts readily and quickly, has wide powers, and can inflict heavy fines, which are a charge on wages."

ADOPTION BY VICTORIA.

The strike-prevention law in South Australia could be adopted here, but it would involve a radical alteration from our Wages Board system which has worked so well. The two States set up the same kind of Wages Boards and followed the same system until the South Australian Act was passed at the end of 1912. That Act broke away from all previous precedents and set up an Industrial Court, with Mr. Justice Buchanan as Judge. His powers are quite different from those of a Wages Board, and are more like those exercised in the Commonwealth Court of Conciliation and Arbitration and in the Arbitration Courts of other States. He can bring the parties together and make alterations in existing labour regulation, even to making a new award in a trade which previously had no legal regulation. The Court also has power to fine for a lock-out or strike, and these penalties are direct, that is to say, such action is forbidden under all circumstances.

It is true that in the two years and a half's trial it has had the system has worked well. The credit of that fact is, probably, as much due to the remarkable personality and temperament of the Judge as to any merits in the new law itself. The success of the South Australian law appears remarkable when its close similarity to the laws of New South Wales and Western Australia—the two most strikeful communities—is considered.

Two years ago Victoria was in a slightly better position as regards the number of strikes than South Australia. Since then South Australia has ousted Victoria from her claim of being the State with the fewest strikes and taken that enviable position for herself. It must not be forgotten, however, that the experience of the new law is too short to form any reliable opinion as to its permanent merits. Although I find much to admire in it, I cannot see why the Wages Board system could not with advantage be extended, instead of extending the regulation of labour under a newly set up Court. The extension of the system in South Australia has had a double effect. On the one hand it has extended the number of trades brought under regulation, and on the other it has provided punishment for those who strike or lock-out. I cannot see why a similar extension should not be made in Victoria by means of more Wages Boards, instead of a Court, and why the infliction of penalties on strikers should not be done by an automatic law instead of by a high judicial officer. That method would, at least, be more consistent with the system we have always followed. It would also be more economical, and there is no very apparent reason why it should not be equally successful.

WESTERN AUSTRALIA.

Industrial Arbitration Act 1912.

Section 104 forbids strikes or lock-outs.
Penalty on an industrial union or employer, £100; on a worker, £10.

The same section forbids an employer to discharge a worker, or a worker to cease work—

(a) Before a reasonable time has elapsed for the matter to be dealt with by the court; or
(b) During the time the proceedings in court are pending.

Penalties against strikes and lock-outs are direct, and the law makes strikes and lock-outs unlawful; but in a recent case the Court laid down the principle that the common law right to strike (or cease work) had not been expressly taken away by the "Arbitration Act 1912," and therefore penalties under that Act could only be inflicted in trades which were working under an award or order of the Court. The system contemplates everything being done through associations. Neither employers nor workers can approach the Court except by the officers of their association. This is the direct opposite to our Victorian plan, and so it has happened that, while we began by giving a Board for whitework, which we regarded as the occupation in which home work and sweating was most prevalent, and in which the workers were least able to protect themselves, the white-workers in the West, who are said to be afraid to jeopardize their employment by forming a Union, have never been able to obtain the protection of an award. The same condition of things applies to the milliners, dressmakers, and clothing trades. The expense, too, is a handicap on them. The cost of obtaining an award is said to average £100. In one case it was said to amount to £600. The most powerful Unions got the first awards. If a Union is weak, it may be unable to meet the expense of obtaining an award, especially if the proceedings are prolonged by appeal. In the case of the tailoresses' award, the employers appealed, and the award took four years to become effective.

The strike penalties in Western Australia, as in some of the other States, are easily evaded. If employers wished to lock-out they could say their business did not pay, and discharge their hands either at once or gradually. One instance is on record where a large firm took advantage of the outbreak of war last year and shut down their business. In ten days' time, however, they re-opened and re-employed their hands, but at a 25 per cent. reduction in wages. In a variety of other ways employers could shorten hands and give reasons therefor which no constituted authority could question. Employees could strike in a similar way by ceasing work individually, giving a personal reason in each case, or they could do as was done in one instance by the building trade, call a conference of the whole trade so that every man must knock off work to attend the conference, and keep the conference going.

The prosecution for offences is not automatic. For some years the Registrar had instructions to commence strike and lock-out prosecutions in all cases without reference to the Minister. A change of Ministry occurred, and these instructions were withdrawn. Since then no action is taken except by direction of the Minister. Instances were found of fines remaining uncollected.

One informant said:—"Strike prevention legislation has been useless in this State. The official who sets the law in motion against strikers or who prevents them using violence is a marked man. The Government will not prosecute strikers in some cases, in others the fines are reduced or allowed to remain uncollected. It should not rest with the Government to take action or not as it chooses. It should be the statutory duty of some official to act in every case of a breach of the law, and it should be his duty to follow up the fine until collected. The fine should be a charge on wages, as in other States. I doubt whether the penal clauses have any restraining influence. Employers and employees can easily evade them, and in cases where a fine is imposed the penalty can be remitted."

Another said:—"Mr. Justice Burnside does not readily punish by fine. He regards the exercise of this power as somewhat incompatible with his functions as a conciliator. He prefers that courts of summary jurisdiction should be asked to act under section 92, which gives them the same power as that possessed by the Judge to fine for a breach of the strike prevention provisions."

Another said:—"Mr. Justice Burnside wisely refuses to call the parties together in a compulsory conference or to act in any way while men are out on strike. He insists on their resuming work before they approach the Court. This has had great effect in lessening strikes."

ADOPTION BY VICTORIA.

The direct penalties here would be quite unsuitable to Victorian conditions. They are designed to operate side by side with the system of wages regulation by the Arbitration Court. The underlying principle is quite apart from ours.

TASMANIA.

The Wages Board Act of 1910.

This puts penalties on strikes and lock-outs in trades under Wages Boards of £20 against an individual and £500 against an organization.

These penalties are direct, and are not backed up as in other States by machinery for ensuring collection or by any other sections. There are merely the two sections imposing the penalties.

I was unable to hear of any instance where the law had been set in motion.

ADOPTION BY VICTORIA.

The two sections would hardly suit our conditions.

TABLE OF ANTI-STRIKE LEGISLATION THROUGHOUT THE WORLD.

AUSTRALASIA.

Country.	What Lock-outs and Strikes Prohibited.	Punishment.	Remarks.
New South Wales ..	All strikes and lock-outs are illegal. The Industrial Court may grant a writ of injunction to restrain a strike or lockout	Employer liable to fine of £1,000 and worker liable to fine of £50. £1,000 penalty on Union for aiding or instigating a strike. The strike penalty is a charge on strikers' wages, and Union is liable for penalties not exceeding £20	Concilation committees are appointed whose duty is to bring the parties together whenever summoned to meet by the Chairman or Minister. Provision is also made for the appointment of a Special Commissioner who may summon a conference whenever a strike or lockout is threatened
New Zealand	Under the "Industrial Conciliation and Arbitration Amendment Act 1908," which applies only to cases where an award or industrial agreement is in force, strikes and lock-outs are prohibited	Worker liable to £10 fine and employer to £500. In public utilities penalty on worker is £25. The fine for encouraging a strike or lock-out is—Worker, £10; employer or union, £200. Wages of worker may be attached	
	Under the "Labour Disputes Investigation Act 1913," which applies only to cases where there is not an existing award or industrial agreement, notice must be given to the Minister, who must refer matter to an Industrial Commissioner or Committee. If no settlement is effected within fourteen days from delivery of notice to Minister, the Labour	Penalty for striking or locking out before notice is given or before expiration of seven days from the secret ballot —£10 on employee, £500 on employer. Wages of worker may be attached	At any time during the progress of a strike 5 per cent. of the workers concerned may demand a secret ballot on any question relating to the strike

	days must then elapse before cessation of work		
Queensland	In public utilities, strikes and lock-outs are illegal unless a conference has been held before an Industrial Judge and proved abortive, and unless fourteen days' notice has been given after termination of conference and a secret ballot has been taken. In all other cases fourteen days' notice must be given, and a secret ballot taken	Employer, fine of £1,000; worker, fine of £50. Penalties are made a charge on wages and on funds of associations	"Industrial Peace Act 1912"
South Australia	All strikes and lock-outs are illegal. The Judge of the Industrial Court brings parties together when any dispute occurs, and may make a new award in trades where there is none in force or vary an existing award	An association, fine of £500; a person, fine of £500, or three months' imprisonment. Fine of £20 or three months' imprisonment for picketing. Penalties are made a charge on wages over and above £2 per week and upon funds of associations	Power is held to fine an employer who refuses to employ, or a worker who refuses to accept work, where there is an industrial agreement or decision in operation. "Industrial Arbitration Act 1912"
Tasmania	All strikes and lock-outs in Wages Board trades	Organization, fine of £500; individual, fine of £20	
Victoria	No Legislation	.. ..	If a Wages Board determination is in force in the trade it can be suspended for any time up to twelve months
Western Australia ..	Strikes and locks-out are illegal	Industrial union or employer, fine of £100; worker, fine of £10	An employer cannot discharge a worker nor can a worker cease work—(a) before a reasonable time has elapsed for matter to be dealt with by Court; or (b) during the time the proceedings in Court are pending. "Industrial Arbitration Act 1912"

TABLE OF ANTI-STRIKE LEGISLATION THROUGHOUT THE WORLD—continued.

OTHER COUNTRIES.

Country.	What Lock-outs and Strikes Prohibited.	Punishment.	Remarks.
Austria	In public utilities . ..	Union may be dissolved and funds seized	Before forming a Union, the organizers must notify the authorities, and also send them a copy of the by-laws. The authorities may then forbid the formation of the Union if it is likely to be dangerous to the State. The rule is said to be faithfully followed during a prolonged strike of the Unions taking a weekly secret ballot
Belgium	In public service	Imprisonment or fine	
Canada	Unlawful in mines and public utilities until after inquiry by Government Board and publication of report	£2 to £10 fine on each worker, £20 to £200 fine on each employer, for each day strike or lock-out continues	The report of the Board is published in order that public opinion may be enlisted in support of the side in the right. The Act is dated 22nd March, 1907. Strikes since then numbered in 1908, 68; in 1909, 69; in 1910, 84; in 1911, 99; in 1912, 150; in 1913, 113; and in 1914, 44
Denmark	Those where court awards or trade agreements are broken	Fine	Conciliator or Arbitration Court intervenes, and penalties may be imposed for breach of award
England	None		There has never been any legislation penalizing lock-outs and strikes, but since the "Conciliation Act 1896" was passed Sir George Askwith, the Chief In-

			dustrial Commissioner, usually mediates. If he is unsuccessful in settling the differences, a report of the whole facts surrounding the dispute is made and published. This Act seems to be the genesis of the Canadian law of 1907, which provides penalties and the publication of a report. The Canadian Act was admittedly the model on which the Queensland Act of 1912 and the New Zealand Act of 1913, which provide for secret ballots, were founded. The Transvaal Act of 1909, providing for inquiry by a Board and publication of finding, also appears to be inspired by Canada. In this instance the mother country has to a large extent been the pioneer in industrial legislation instead of—as we often think—the follower of our experiments
France	In railway, postal, and merchant shipping services, and in any case where threats or fraudulent devices are used	Imprisonment or fine and loss of employment	In other industries, the liberty, both for employers and work people to take concerted action in a peaceful manner, with a view to the cessation of work has been formally recognised since 1864
Germany	In public utilities and amongst agricultural labourers	Imprisonment	Every Government employee looks forward to attaining the status of an "official," and this is practically impossible if he belong to a trade union or be known to sympathize with one

TABLE OF ANTI-STRIKE LEGISLATION THROUGHOUT THE WORLD—continued.

OTHER COUNTRIES—continued.

Country.	What Lock-outs and Strikes Prohibited.	Punishment.	Remarks.
Holland	In railway services ..	Imprisonment or fine ..	Arbitration Boards investigate grievances
Italy	In public and railway services and in any cases where threats or violence are resorted to	Fine and loss of employment in public and railway services. Imprisonment or fine in other cases	The real restraining influence is the power possessed by the Government to call out the reserves and compel the strikers to resume work under military law
Ottoman Empire	Unlawful in public utilities until grounds of dispute are communicated to Government and attempts at conciliation fail	Imprisonment or fine ..	The formation of trade unions in establishments carrying out any public service is forbidden
Portugal	Unlawful in public utilities until eight to twelve days' notice, according to nature of the undertaking, is given, together with a statement of the causes of the strike	Loss of employment ..	In industries other than public utilities strikes have been expressly allowed since the revolution in October, 1910
Roumania	In public utilities ..	Imprisonment and loss of employment	No person engaged in a public utility can join a trade union without the authority of the Minister
Russia	Agricultural labourers and persons in public utilities	Imprisonment and loss of employment	The authorities have power to arrest or banish strikers without bringing them before a court of law

Spain	Unlawful in public utilities until five to eight days' notice is given, together with a statement of the causes of the strike	Principals and leaders who do not make declaration as to causes of strike liable to imprisonment	In industries other than public utilities, strikes are expressly allowed, provided no violence or threats are used
Switzerland	In federal railway service and in the Canton of Geneva whenever an industrial agreement or award is broken	Cautions and fines ..	No strikes occurred in the railway service from 1857 to 1912
Transvaal	In public utilities, in the mining industry, and in any undertaking or industry to which the provisions of the Act are extended by proclamation strikes are unlawful until after inquiry by a Government Board and until one month after publication of Board's report	Any striker liable to a fine of £10 to £50 for each day, and in default imprisonment, or imprisonment of three months without option of fine. Any one encouraging another to strike liable to fine of £50 to £250, or six months' imprisonment. Any employer declaring a lockout liable to fine of £100 to £1,000 for each day that lockout continues, or to twelve months' imprisonment	The Industrial Disputes Prevention Act of 1909 is based, as regards objects and procedure, upon the Canadian Industrial Disputes Investigation Act of 1907
United States of America (most of the States) ..	In railway services ..	Imprisonment or fine ..	Although there is no law specifically prohibiting railway strikes, it is a common practice of the courts to declare such strikes illegal on the ground that they violate the provisions of the Anti-Trust Act, the Obstruction of Mails Act, and the Inter-State Commerce Act

APPENDIX C.

OTHER WAYS OF DISCOURAGING INDUSTRIAL UPHEAVALS.

THE COMMON LAW.

The common law is open to any person or body of persons to sue for damages consequent upon a lockout or strike. Two specific instances are given in Appendix B of this Report, where Queensland Unions in order to enforce the rules of their associations caused the dismissal of a worker by the threat of a strike. In each case they were mulct in damages for conspiring to prevent the individual from earning his living. These cases are *Heggie* v. *Brisbane Shipwrights' Provident Union*, reported in Queensland State Law Reports of 1905, page 155, and *Stanley* v. *Queensland Typographical Association*. These instances have many parallels in the law reports.

The following three cases are taken from a large number of English cases, and are selected as indicating shortly the kind of case which is actionable:—

In *Quinn* v. *Leathem* (1901, A.C., 495) the members of a Butchers' Union adopted a rule not to work with non-unionists, and the unionists employed by plaintiff were called out on strike. The Union also published a "black list," on which the plaintiff's name appeared. In awarding damages to plaintiff, it was held that a combination of two or more, without justification or excuse, to injure a man in his trade by inducing his customers or servants to break their contracts with him or not to deal with him or continue in his employment is, if it results in damage to him, actionable.

In *Glamorgan Coal Co. Ltd. and others* v. *South Wales Miners' Federation* (1903, 2 K.B., 545), the miners employed in certain collieries, without giving notice to their employers, and in breach of their contracts with them, abstained, at the direction of their Federation, from work-

ing on certain days, called "stop days." The object of the men was to keep up the price of coal, upon which the amount of their wages depended. Damages were awarded against the men, and the employers were given liberty to apply for an injunction later on if necessary.

In *Giblan* v. *National Amalgamated Labourers' Union* (1903, 2 K.B., 600), the Union expelled the plaintiff from their body, and adopted a rule that none of its members was to work with him. On several occasions, in consequence of the Union's representations to the employers, Giblan was discharged, and in one case several of the Union men were fined by their association for working with him. Judgment was given for plaintiff, with liberty for him to apply for an injunction if necessary.

THE INDUSTRIAL DISPUTES COMMITTEE OF THE TRADES HALL.

Notwithstanding the belief that is held in some quarters that Union secretaries and other office-holders of Unions are the real fomenters of industrial disputes, as a general rule these men are the force that holds the workers back. The Union secretary has a peculiarly difficult post. He is blamed by both sides. Of course he is most in evidence whenever disputes occur. It is he who must pull the strings for the man he represents, and so it is perhaps not surprising that he should be blamed. He is as a matter of fact frequently forced by a vote of the most ignorant, turbulent, and irresponsible section of his Union to take up a position which he knows to be wrong. It is inevitable that among Unions a section will be found that think reforms should be accomplished with a sledge hammer. These people are enemies of the legitimate objects of unionism, though they are unaware of it, and they are the thorns in the side of the Union officials, the majority of whom are honestly working for the upraising of the workers by equitable means. The lessening of strikes, provided fair demands can be satisfied by other means, is the aim of most Unions, and must neces-

sarily be their aim from the fact that not only does the suffering engendered by a strike fall principally on the workers and their families, but also that the strike weapon is the most expensive that can be used. Strikes are perhaps most often broken by the exhaustion of Union funds, and are therefore most devoutly to be avoided by Unions. Thus it comes about that there is a distinct cleavage between the outlook of the irresponsible individual worker who, with little to lose and it may be without any one depending on him for support, lightly votes for a strike, and the Union which stands to lose its all and perhaps suffer the loss of most of its members in the aftermath. In this connexion every person who takes any interest in industrial questions should read *The Case for Labour*, by the Hon. W. M. Hughes, Federal Attorney-General, especially the chapters on the General Strike. I know of no other book on Labour questions that so well repays perusal.

Action was taken about three years ago to secure the proper consideration of all disputes before a strike could be declared. In order to safeguard Union interests and prevent the embroilment of unionism in a hasty or ill-considered strike, a committee was set up by the Trades Hall Council. This committee claims to have prevented sixty out of sixty-nine threatened strikes. The rule under which it exists is as follows:—

Industrial Disputes Committee.

37. There shall be an industrial Disputes Committee composed of seven members elected from and by the Council, whose duty shall be to call a joint meeting of the Executive or duly appointed representatives of all Unions, who, in their opinion, are likely to be involved in any dispute reported to them, and to take such action as may seem to them necessary, and to ascertain the wishes of the members of such Unions regarding such disputes. They shall be elected annually, a majority and a minority retiring alternately.

It shall be compulsory for each and every affiliated Union to notify (where practicable) the Disputes Committee of any dispute pending in their trade or calling, before deciding to strike. In the event of a strike taking place without the consent of those Unions which the Disputes Committee deems likely to be involved, the Council and such Unions shall be absolved from taking any part whatsoever in the dispute, and all affiliated Unions shall be relieved of any obligation to contribute to such strike. When a dispute has been placed in the hands of the Disputes Committee, any Union or Unions acting without consulting such Committee shall be reported to, and dealt with as the Council may deem fit.

EMPLOYERS' DEFENCE ASSOCIATION.

In trades where such a combination is possible the banding together of employers with a pooling of interests, properly held together by money bonds and penalties, so that united action in case of a strike would be assured, would constitute (in my opinion) a stronger preventive of strikes than any penal law that can be enacted. It must be at once admitted that such an organization is impracticable in trades, crafts, or industries that are divided up between a large number of small employers, but in such occupations strikes less often occur. It is among largely held concerns that the greatest need of a strike-preventer exists, and it is here that their comparatively small number brings within reach of employers an overpowering weapon that, strange to say, has hardly been brought into use. It is scarcely within the scope of this report to go into details in such a matter, but I have in mind a trade which covers important interests, and in which there are probably less than 50 employers throughout Australia. If they combined, and under properly underwritten bonds agreed to close down all works for three months in case of a

strike in any State, I venture to say the remedy would never be put to the test, because no strikers would knowingly enter upon three months' self-enforced idleness, but would prefer to submit their claims to the existing tribunals, and abide by the result.

The only combination of employers in my knowledge is at Wellington, New Zealand. The waterside workers' employers there, impelled by the effects of the waterside workers' strike of 1913, adopted a plan devised by Mr. William Pryor, Secretary to the New Zealand Employers' Federation, under which all wharf labour in Wellington now works.

An association of employers was formed. Each employer gave in a list of reliable wharf labourers. A roll of these workers was made, totalling about 1,100. The employers bound themselves to employ only men on the roll, except when the whole of those men are employed, when they are at liberty to employ outsiders if there is enough work. About 700 of the 1,100 are permanently employed; the others have periods of idleness. The 700 earn up to £7 a week. The average earnings of the whole 1,100 is £2/19/-; but many of the least permanent hands earn money at other occupations.

If a man seriously misbehaves the employers strike him off the roll, and no waterside employer in Wellington will give him work. This has never been done without good cause. I could only hear of one such case. The officers of the Union concurred in the expulsion.

Instead of each employer paying his men separately, involving a worker waiting in turn at the office of each company he has worked for during the week, the pay sheets, with a cheque, are sent to Mr. Pryor, with 2½ per cent. on the total added—this 2½ per cent. is put to a fund for mutual defence. If an employer were to withdraw he would forfeit his share. The pay-sheets are sent to the Union secretary, with a cheque for the total. He pays the men, and is able to keep a record of all the work done by each man, and for whom he has worked.

This arrangement has been in force for about eighteen months, and has, I am informed, been found satisfactory by both employer and employee.

DIVISION OF PROFITS, LABOUR CO-PARTNERSHIP, LIMITATION OF PROFITS, AND CO-OPERATION.

It may happen that in the search after perfection a new way will be found better than any system the world now knows. When that discovery is made the need for strike-preventing laws will be less than before in exact proportion to the merit of the new plan, and its success in attaining industrial justice. The fact that no two polities can be found which have adopted the same method shows that all existing systems are in the experimental stage and have yet to prove themselves or be supplanted by others. Faults can be pointed out in each of them, but at least one defect is common to all, viz., they are unscientific in that they provide only for favored classes of workers, usually those classes which are most highly organized and so able to press their claims. The raising of wages for sections of the community has a lowering effect on the wages of the other sections, and in that connexion is wanting in equitableness. In parts of America where much interest has been taken in our Australian law, the minimum wage advocated is a *universal minimum* fixed by law and applicable to all trades and occupations. The nearest approval to a universal minimum wage in Victoria is to be found in Section 49 of the Factories Act—"No person whosoever unless in receipt of a weekly wage of 2/6 shall be employed in any factory." This section was passed with the object of protecting young girls in factories. It affords an example of a principle that might possibly be extended in the future.

As the scope of this report hardly includes the subjects named at the head of this section, I do no more than mention them as possible future activities. Some of them are treated in an instructive way in "Profit Sharing and the Labour Question," by T. W. Bushill, and in reports of the British Board of Trade, 1894, 1912, and 1914.

APPENDIX D.

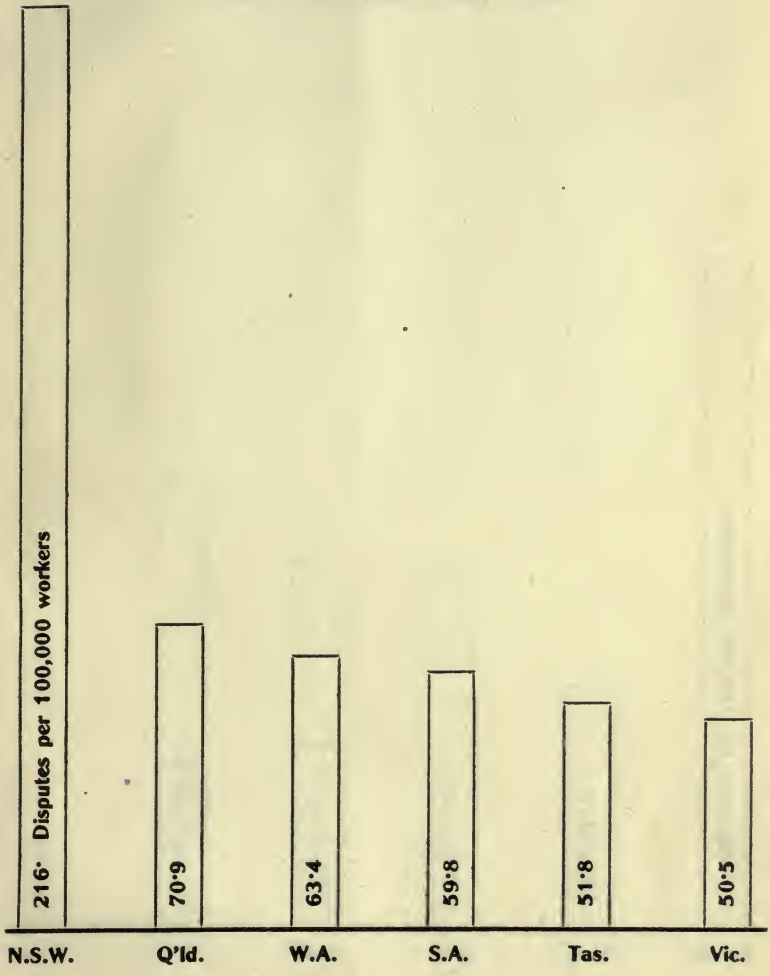
INDUSTRIAL DISPUTES IN THE AUSTRALIAN STATES DURING THE YEARS 1913, 1914, 1915 and 1916.

	N.S.W.	Vic.	Q'ld.	S.A.	W.A.	Tas.
Number of disputes	977	166	116	58	57	22
Number of establishments affected	2,785	830	353	128	398	90
Number of workers involved in disputes commenced during period—						
Directly	198,370	28,860	21,905	3,239	6,980	2,020
Indirectly	90,936	6,279	4,171	1,366	8,142	113
Total	289,306	35,139	26,076	4,605	15,122	2,133
Total number of working days lost	2,915,470	462,465	271,615	48,147	237,372	30,470
Total estimated loss in wages	£1,550,410	218,522	146,602	29,152	140,686	15,274

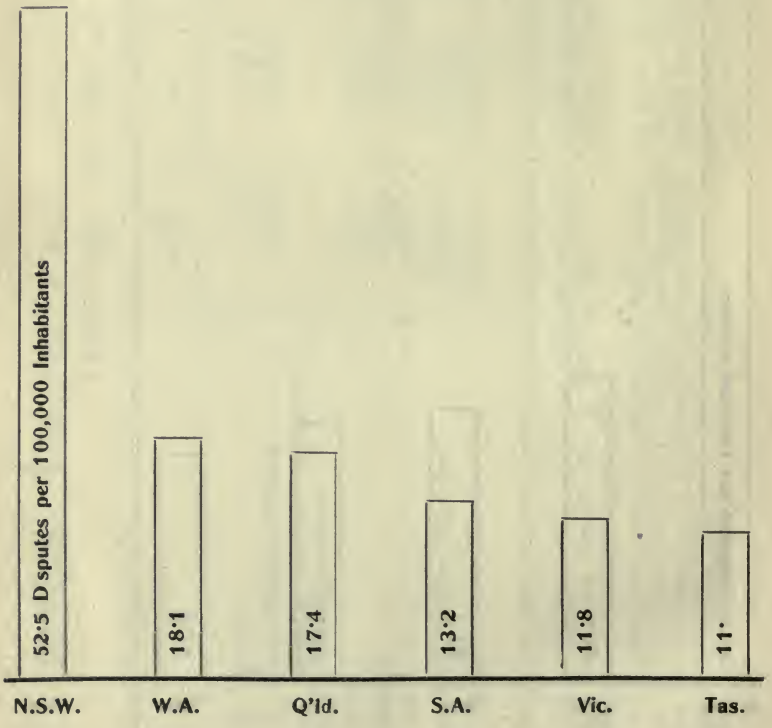
These figures, which show the disputes in each State during the period 1913-16, are based upon particulars published in Labour Report No. 7, 1917, by Mr. G. H. Knibbs. They include strikes and lock-outs, particulars of which are not collected separately.

The comparisons which follow have been worked out from the figures given above. When this report was finished in 1915 this table only included the figures for 1913 and 1914. The opportunity has now been taken of bringing the information up to date by incorporating the figures for 1915 and 1916. The same has been done in the graphs which follow. The year 1913 is taken as the commencement because Mr. Knibbs did not publish strike statistics before that year.

Number of Disputes per 100,000 Workers.
1913, 1914, 1915 and 1916.

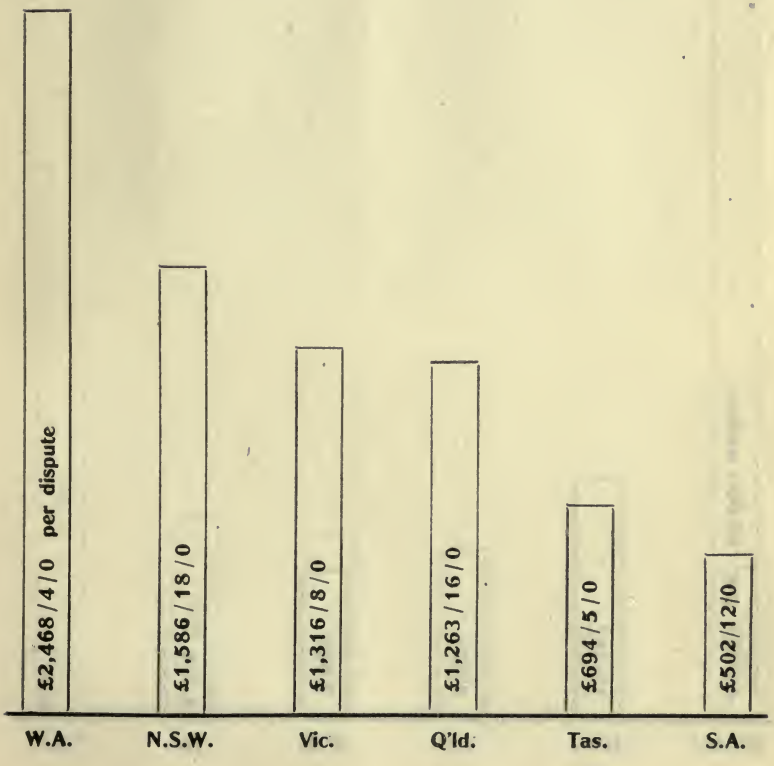


Number of Disputes per 100,000 Inhabitants.
1913, 1914, 1915 and 1916.



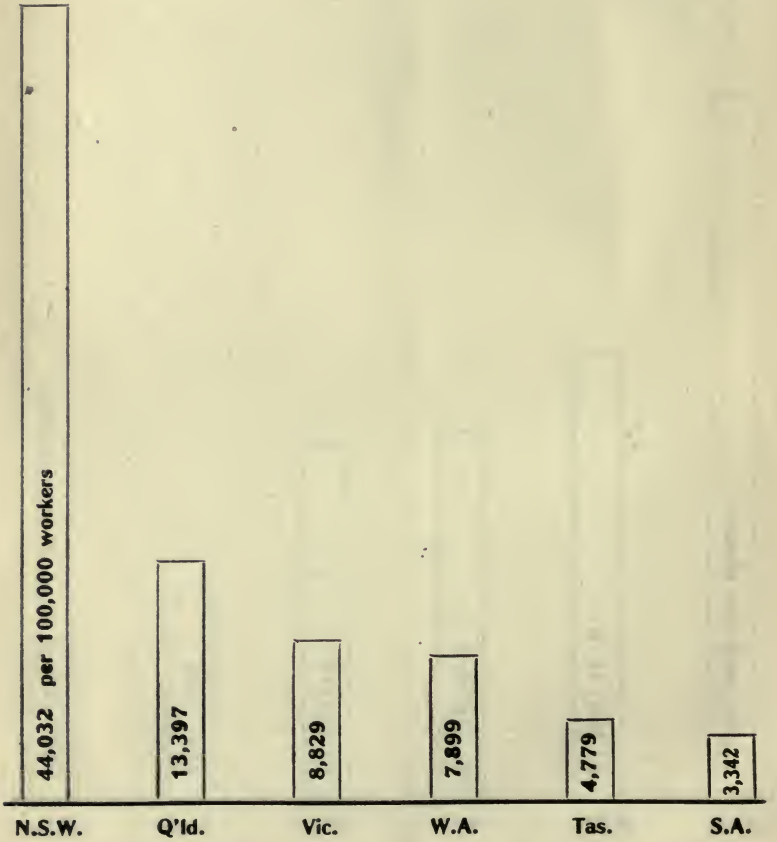
Average Cost of each Dispute as shown in Loss of Wages.

1913, 1914, 1915 and 1916



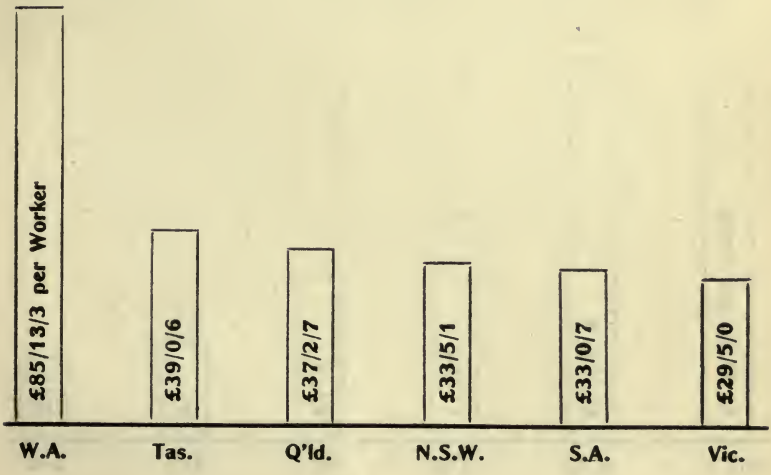
Number of Workers in every 100,000 directly involved in Disputes.

1913, 1914, 1915 and 1916.



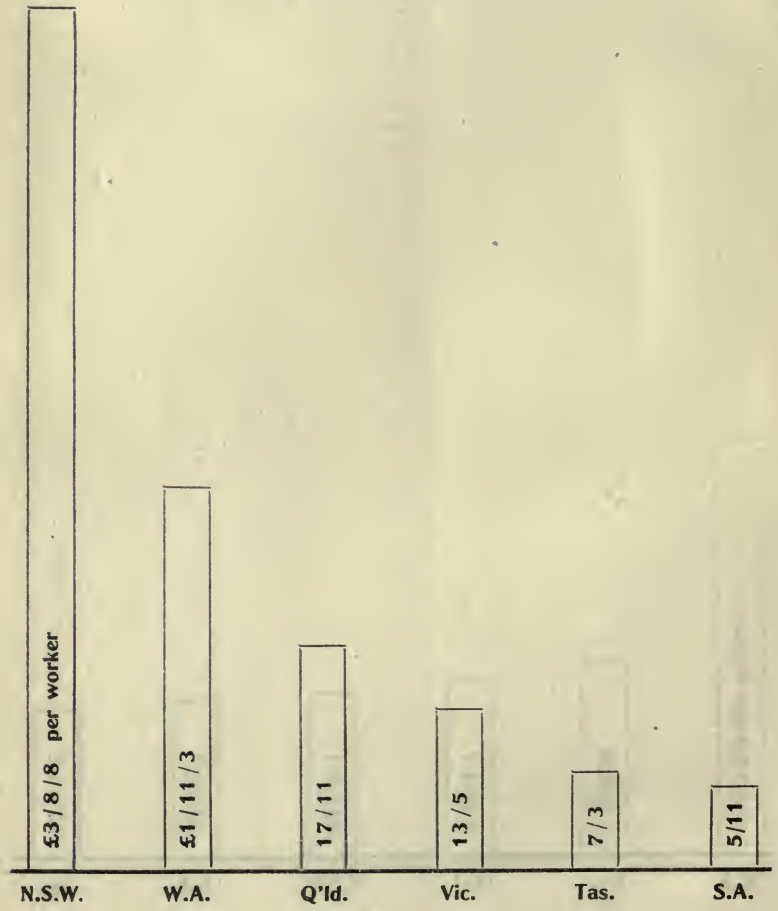
Average Loss of Wages (caused by all disputes) suffered by each Individual Worker directly involved.

1913, 1914, 1915 and 1916.



Average Loss of Wages (caused by all disputes) suffered by each Individual Worker, taking in all Workers in each State.

1913, 1914, 1915 and 1916.



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